AMERICAN POLITICAL SCIENCE ASSOCIATION ISSUE

The Washington Monthly

EPTEMBER 1995 $3.95 ($4.95 CAN)

ACT NOW: THERE'S STILL TIME TO STOP THE "REVOLUTION"

The Monthly's Guide to the GOP's Most Dangerous Ideas

PLUS: Philip Howard on Regulation and Richard Reeves on Why Bill Clinton Wishes He Were JFK

PULP AFFLICTION

ARE TODAY'S HIPSTERS COOL—OR CRUEL?

BY GARETH COOK

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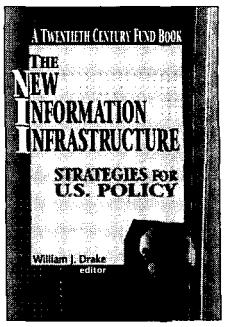
The New Information Infrastructure

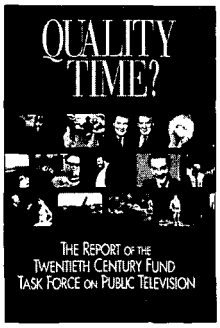
Strategies for U.S. Policy

A Twentieth Century Fund Book, edited by William J. Drake



Will the information superhighway be tailored to the demands of major corporate interests, or will it meet the needs of small businesses, nonprofits, and individuals? A group of experts calls for comprehensive, flexible policies so the benefits of the information age can be widely shared. Contributors include Henry Geller, former FCC general counsel; Eli Noam, Columbia University; Linda Garcia, U.S. Office of Technological Assessment. Edited by William J. Drake, University of California at San Diego.

The Twentieth Century Fund Press, 400 pages; 0–87078–366–1; $14.95



Quality Time?

The Report of the Twentieth Century Fund Task Force on Public Television

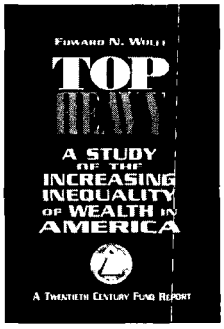
Hailed by the *Washington Post* as "tough and detailed," the report recommends changes in how federal funds are deployed, new funding sources, and programming improvements. The *New York Times* called *Quality Time?* "a highly intelligent analysis of how public television came to be and what it still could become."

The Twentieth Century Fund Press, 200 pages; 0–87078–354–8; $9.95

Top Heavy

A Study of the Increasing Inequality of Wealth in America

A Twentieth Century Fund Report by Edward N. Wolff



Economist Edward N. Wolff provides data that raise disturbing questions about the widening wealth gap that threatens to turn the United States into a land of haves and have-nots, with few left in the middle. "A Rising Tide Lifts the Yachts," says *Newsweek* of the findings in *Top Heavy.*

The Twentieth Century Fund Press, 93 pages; 0–87078–360–2; $9.95

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Letters

Big Mac's Attack

Project 100,000 was even more venal and had more negative ramifications than Myra MacPherson indicated ("McNamara's *Other* Crimes," June).

More men were killed and wounded in Vietnam because of the program. As a former infantryman, I can attest that these men (sixth grade reading level or less) on average did not perform as well as others in combat, thus unnecessarily endangering themselves and those with whom they served. In a war often involving very small patrols, intelligence and independent thinking were especially needed. Many think this is not necessary; on the contrary, you need every brain cell you can garner in a firefight.

A 1989 study of these men, post service, found that they clearly suffered occupationally compared to similarly disadvantaged nonveterans their age and had a divorce rate twice that of the comparison group. So much for a program sold over the objections of the military as being good for its subjects.

Half of the 354,000 participants were draftees, not volunteers, many who had previously been excused from military service and had families and established careers disrupted when drafted up to age 26. They were barred from reenlistment when the program's stated goal of providing upward mobility for the economically and educationally disadvantaged had been accomplished.

Finally, the lowering of standards diminished the integrity of the military and no doubt contributed to its disintegration, all too apparent to those serving from the late sixties on.

Have you ever wondered why so few men on the public scene from their mid-forties to early fifties are military veterans? How could they have all avoided the draft? Not to worry, there were plenty of unseen Americans to take their place.

Craig Hardwick
Friendswood, TX

The Cable Scam

Amy Waldman's June article on home shopping channels ("Lonely Hearts, Classy Dreams, Empty Wallets") was right on target, as far as it went.

But there is another, pernicious issue related to the proliferation of such channels—the opportunity cost to cable subscribers and the communities served by their cable companies by having these home shopping networks take up the limited space in the cable channel spectrum.

In much of Greater Miami, for example, cable giant TCI inflicts two channel-hogging home shopping networks on its subscribers (along with such other money-makers as three pay-per-view channels, one pay-per-view preview/promotional channel and seven premium channels). To make room for these most profitable offerings, TCI airs only partial-day coverage of such respected public affairs and education/entertainment cable networks as C-SPAN, Bravo, American Movie Classics, and the Comedy Channel, and provides no air time at all for the History Channel, ESPN II, Turner Classic Movies, and the Sci–Fi Network, among many others.

This just proves again that when it comes to local cable monopolies, greed talks and serving the community's interests walks.

Mark B. Cohen
Miami, FL

Motor Mouths

The "Tilting at Windmills" supposition that the motor-voter program might serve GOP interests because "many polls" suggest most folks tilt that way (June) did not take into account the many other polls that show overwhelming majorities tilting towards clean air, water, and food (in direct opposition to GOP goals), and that similar percentages consider themselves to be environmentalists.

Also unaccounted for is the conveniently simultaneous (with motor-voter) defunding and commercialization of "public" broadcasting. This will deny the majority anything but economically conservative-GOP-establishment information on which to base voting decisions. What many (most?) Republican supporters vote for is the rhetorical packaging (i. e. "free trade"), not the contents (more pesticides, E. coli, etc.).

If the commercial/corporate sector controls mainstream information and if there's no balance in campaign funding, then the corporate media and the Limbaughs, et. al., will create the choices available to motor-voters. Without open, public media, the private, capital interests have little to fear. We know, don't we, that

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they have no fear of embarrassment or disgrace in enjoying "victories" based entirely on disinformation and omissions.
John Jonik
Philadelphia, PA

Kudos for Clinton

A very big thank you for Daniel Franklin's piece, "He's No Bill Clinton" (May). It is one of the very few articles I have seen giving President Clinton proper praise for his highly overlooked accomplishments. Most of the press has gotten so negative that public officials rarely even get credit for the things they may actually be doing right. Such is the case with President Clinton, who has done more of what he had promised than any other president in recent history, but has received very little to no credit for it. Thank you *Monthly* staff for providing such clear-headed articles as this one giving President Clinton what his record is due, and staying away from the trendy over-negativism the other media know and love. It reminds me of why I continue to subscribe to the *Monthly*.
Christopher A. Bradley
Laurel, DE

Blue Grass Block Grant

The "Devolution Chic" article in your April 1995 issue provided prudent caution for those who would move governmental duties from Washington to the states and/or from the states to local governments. As a warning for those who would rely too heavily on states, you also indicated that Kentucky was one state which had endured corruption in recent years. Kentucky has dealt with that corruption and anticipates better government.

There is another lesson which Kentucky can provide. (In 1990 our state enacted the "Kentucky Education Reform Act" (KERA). With this comprehensive law, Kentucky is setting the pace for education reform in this country.

One essential aspect of KERA is school-based decision making. Eight hundred public schools in Kentucky are each governed by a school council made up of the principal, two parents and three teachers. The school council has authority over many vital aspects of education, including curriculum and discipline. The Kentucky experience in devolution of authority to school councils is a great success. By 1996, all public schools in Kentucky will use this decentralized management system.

If you would like a preview of what effective devolution can do, visit Kentucky's public schools. These schools are inventing the future of education and of decentralized management. The success stories are many and can provide important guidance as the national government and many state governments consider additional decentralization.
Keen Babbage, Ed. D.
Lexington, KY

Clarification

In her response to my letter in your June issue, Dale Russakoff claims that I was incorrect in stating that her husband, Matthew Purdy, was one of the reporters who covered the 1991 Philadelphia mayoral campaign. My book, *The Media and the Mayor's Race*, which Russakoff reviewed for this magazine (April), was highly critical of the *Inquirer's* coverage of that campaign. A check of the *Inquirer's* electronic database would have revealed that in May 1991, Purdy was the author, co-author, or contributor to 17 mayoral campaign stories in the *Inquirer*. Three of those campaign stories carried Purdy's name as sole byline, and Purdy shared a byline for eight other campaign stories and was a contributor to six others.
Phyllis Kaniss
Philadelphia, PA

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Tilting at Windmills

Defenders of federal spending for scientific research may have found a powerful ally in their battle against Republican budget cutters. It seems that research for the new "anti-fat" pill was partly funded by the National Institutes of Health. Since more than half the population is overweight, the Democrats may be able to turn this into a bigger issue than Medicare....

At a recent dinner, David Broder asked House Majority Leader Dick Armey why Armey did not try to persuade television and movie executives to stop celebrating violence. Armey's answer:

"If I run a movie company, my job is to sell movies." Then, Broder reports, Armey "leaned across the plate of fajitas and quoted an axiom he attributed to Andrew Carnegie but which actually was uttered by another nineteenth century tycoon, railroad magnate William H. Vanderbilt: 'The public be damned! I work for my stockholders.'"...

Hooray for Bill Clinton's attack on advertising that tempts the young to smoke. As one who was hooked on cigarettes as an adolescent who thought smoking would make me seem more worldly to the girls, I know he's on the right track. It will be interesting to see the reaction of our leading publishers, people like the Sulzbergers and Grahams. Will they do the right thing and accept the restrictions imposed by the President or will they use phony First Amendment arguments to try to evade their moral responsibility?...

Did you see that marvelous article by Thomas E. Ricks in *The Wall Street Journal* about the growing gap between the military and society? The author compares life in the Marines, where drug use, racism, and insubordination are rare, to a civilian society where they are all too common. The differences, retired Marine Lt. Gen. Bernard Trainor recalls, were much less pronounced in the forties, when society "thought more about its responsibilities than its rights."

Today, writes Ricks, "drill instructors say they are contending with the children of the seventies, a passive generation raised by baby sitters and day-care centers and one unaccustomed to accountability. ... Far too many recruits come in with little moral foundation." The Marine Corps succeeds in changing most of these recruits, but then when they look at the rest of society it is not something they like.

"It is a fact of life," says Sgt. Major James Moore, "that there isn't a lot of teaching in society about the importance of honor, courage, commitment. It's difficult to go back into a society of 'what's in it for me?'"

The military I knew as a soldier in the mid-forties was not quite as pure. There were some sadistic sergeants and a few nuts like Timothy McVeigh, and I'm sure there still are, but there was a good side, the side that Ricks describes, and one that far too many of my fellow liberals are unaware of.

Ignorance of the military also has an impact on decision-making by civilian officials. General John Shalikashvili put it gently when he recently said about Tony Lake to Jason DeParle of *The New York Times*, "My feeling is that he must always be conscious when it comes to making decisions on the use of military power that the President has not served, and that he has not served."

Les Aspin, just before he died, told the *Washingtonian*'s Ken Adelman:

"Because we no longer have the draft, many Washington power brokers have no experience of what the military's all about. The White House staff is unfamiliar with the military. Each Congress becomes less familiar.

"The same holds true for the press corps—almost anywhere you look here there's a diminishing pool of people with military experience. I learned about this right off the bat when I found myself dealing with gays in the military. Almost everywhere around Washington I found journalists or White House staffers who had friends who were gay. Few of them, though, had friends in the military."...

A not unrelated problem is described in the Charleston, West Virginia *Gazette*. Reporter Linda Blackford wondered where local public officials send their offspring to school. It turned out that the governor's two sons were sent to New England boarding schools. The attorney general sends his children to private schools as does the Kanawha County School Superintendent and the principal of Kanawha High School.

I agree with the principal of another Charleston school who says, "I think car dealers should have to drive the brand they sell. I wouldn't want to be principal of a school if I wasn't confident my own child could get a good education there."

Sure, there are some public

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school systems, especially in large cities, that are so bad that no one should be expected to expose his children to the physical danger and educational ineptitude that they would encounter. But in much of the country, including much of West Virginia, decent public schools still exist. And the greatest threat to them is the snobbish parents who send too many of the brightest and most culturally advantaged children to elite institutions where they have no contact with the average Americans who are in the public schools, deprived of the companionship and competition of their more privileged peers. For their part, those who are to the prep school born never learn that their public school counterparts can be talented and intelligent too. The elite need to know this so that they don't go through life thinking that they are the only ones who deserve to get ahead—especially when they happen to have been born ahead in the first place....

House Budget Committee Chairman John Kasich is usually in favor of cutting federal expenses. Why then in a recent conference committee did he refuse to accept a seven-year freeze on congressional pay sponsored by Senate Budget Committee Chairman Pete Domenici? The freeze would have kept salaries at their current level of $133,600....

Another tribute to the sincerity of the GOP's zeal to cut the budget is the fact that the leading abuser of the franked mail privilege during the first quarter of this year was Frank Wolf, a Republican. Another Republican, Richard Baker, came in second....

How greedy are the geezers? The Reverend James R. Blanning, a 68-year-old retired minister from West Dennis, Massachusetts, who attended the White House Conference on Aging, wrote this report for the op-ed page of *The New York Times*:

"On the first day of the conference, at a seminar on Social Security, I tried to raise the issue of means testing. ... I did not believe that a retiree with an income of, say, $100,000 a year was necessarily entitled to the maximum in monthly benefits. Social Security, after all, had been created during the Depression to provide the elderly with decent pensions as a kind of safety net.

"Yet any suggestion of tying benefits to income was greeted with shock. Did I not understand that we, as senior citizens, were entitled to all that we qualified for under the Social Security system? So much for any serious discussion of saving its funds for future generations.

"The Sunday after ... I did some informal polling of younger members of my congregation. I could not find any who thought there would be much left in the Social Security fund or Medicare when they retired....

"Just don't ask some geezers if they care."

Well, I'm 68, too, and I agree with Blanning. Bless him for writing the piece and the *Times* for publishing it. I only hope that it wakes up enough of our fellow geezers in time to save the programs for those who come after us....

Is *The Washington Post* becoming more conservative? Two recent articles concern me.

One was "The Rich Already Pay Plenty," by the paper's new columnist, James Glassman. Another came the day before the Senate was scheduled to begin debate on Bob Dole's attempt to roll back regulation, when the *Post* ran a long story on the regulatory burden carried by a Texas company, taking up more than two pages with it. The headline over two-thirds of one of them: "Company Confronts a Mountain of Regulatory Paperwork," accompanied by a photograph of the company's CEO and a quote from him: "It is frightening."

Let's consider that "mountain" of paperwork first. If you make it to the story's eighth paragraph, you will learn that the company "suffers little from the environmental, health, and safety rules," which are of course the main targets of the Republican rollbackers. Instead it turns out that what hits the company hardest are "rules affecting corporate financing and stock sales." Nowhere does the article mention that most of that burden would not exist if the company had not chosen to sell its stock to the public.

And it turns out that one of the main villains of the piece—the 121 page S-1 form that the company has to file every three months—only has to be filed because the company chose to sell $75 million worth of junk bonds to the public, a transaction about which it seems understandable that the SEC would have considerable curiosity.

Another part of what the *Post* calls the regulatory "burden" of the company is patent law. In other words, if the company violates the patent of another company and is sued by it, *The Washington Post* says that being sued by the company that owned the patent is a regulatory burden on the company that stole it. This makes the editorial page of *The Wall Street Journal* sound like *Mother Jones*.

Now for Glassman's case that, where taxes are concerned, "The Rich Already Pay Plenty." As with the mountain of paperwork story, you have to wait a while to discover the author's escape hatch. It's in parentheses at the end of the sixth paragraph: "These figures exclude Social Security taxes which are supposed to be contributions toward retirement and health insurance." Of

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course, it is precisely in this area that the tax burden of the average worker has grown enormously in proportion to that borne by the affluent.

Herbert Stein, the chairman of Richard Nixon's Council of Economic Advisers, and not exactly a flaming lefty, recently pointed out that the tax burden had decreased from 1954 to now except for Social Security and Medicare. In other words the taxes the rich pay most heavily have gone down while the taxes paid most heavily by the working class have gone up....

But don't get the idea that we're always for income taxes and regulations. We definitely are not. For instance, on regulation we agree with much of the criticism made by Philip K. Howard in his book, *The Death of Common Sense,* and in the interview that begins on page 23 of this issue. As for the income taxes, we're troubled by the IRS plan to audit 92,923 individual taxpayers at random without regard to the taxpayer having done anything the least bit suspicious. A former IRS commissioner estimates that this will cost the individuals and companies audited up to $1.5 billion in professional fees, record searches, and other expenses, not to mention the hassle and anxiety the taxpayer has to endure. One taxpayer who has lived through a similar experience told the House Ways and Means Committee, "These are audits from hell."

We believe in the IRS doing more audits than it now does of taxpayers it has reason to suspect of cheating. But the innocent should not be tormented—or if they are, they should be compensated.

The IRS says it can't spot new patterns of evasion unless it audits the seemingly innocent. This may be true. But, if so, then it seems to me the IRS should compensate innocent taxpayers—those who do not owe significant unpaid taxes—for the cost of going through the audit, including his or her own time....

The conservatives who claim the courts are being deluged with lawsuits filed by prison inmates have some compelling evidence to support their case, according to a recent article by Tom Stuckey of the Associated Press. In 1966, there were 218 inmate lawsuits. In 1972, the number was 3,500. By last year it had grown tenfold to more than 35,000. One sued demanding an abortion, but she wasn't pregnant. One alleged that he had been wrongfully denied the use of $500 he had conned out of a widow living on a fixed income. Another male con artist, pretending to be a female named Paula Abdullah, wrote love letters to an unsuspecting man, persuaded him to send $700, and then filed suit against the warden when the warden refused to let him spend the money....

Even after Governor Pete Wilson got the California regents to end race-based affirmative action at the state's universities, "university officials still will have the discretion to choose between one-quarter to half of their students on criteria besides grades—so long as none is based strictly on race or ethnic origin," according to a recent article by Rene Sanchez of *The Washington Post.*

Of course, American universities have long had affirmative action for alumni legacies as well as football and basketball stars. Years ago I was probably admitted to Columbia ahead of New York high school graduates with better grades because there weren't a lot of applicants from West Virginia. California's university officials will be able to consider similar factors, according to Sanchez, along with race. The most important factor should be a disadvantaged background. The worst divisions in our society are by class, not by race or gender. The primary goal of affirmative action should be to help the poor reach adulthood's starting line on a roughly equal footing with everyone else....

The rich have their ways of dealing with the Regulatory State. In my hometown, Charleston, West Virginia, a wealthy local businessman had his Lear Jet flown to Las Vegas, Nevada just before July 1, when state property tax assessments are made. Last year the jet went to Boca Raton, Florida. A similar approach to responsible citizenship was displayed by the super-affluent California communities of San Marino and Rolling Hills Estates, which tried to meet state requirements for low-income housing by counting maid's rooms and caretaker's cottages.

But the rich can't escape all burdens. The cost of buying life's essentials continues to rise. A Bentley Azure convertible, for example, now goes for $347,760....

Speaking of West Virginia, if you have wondered about the local impact of congressional budget cutters, consider this opening sentence in an article in the Charleston *Gazette* about the effect of cuts in just one small agency on just one region of the country. "If the Republican-dominated Congress slashes the U.S. Office of Surface Mining budget, mountains and streams throughout the coalfields could take a big hit." The article goes on to report that the cuts threaten to produce fewer inspections in the mines and less money to clean up the acid-polluted streams of Appalachia....

The other day I was driving along behind a truck that was belching

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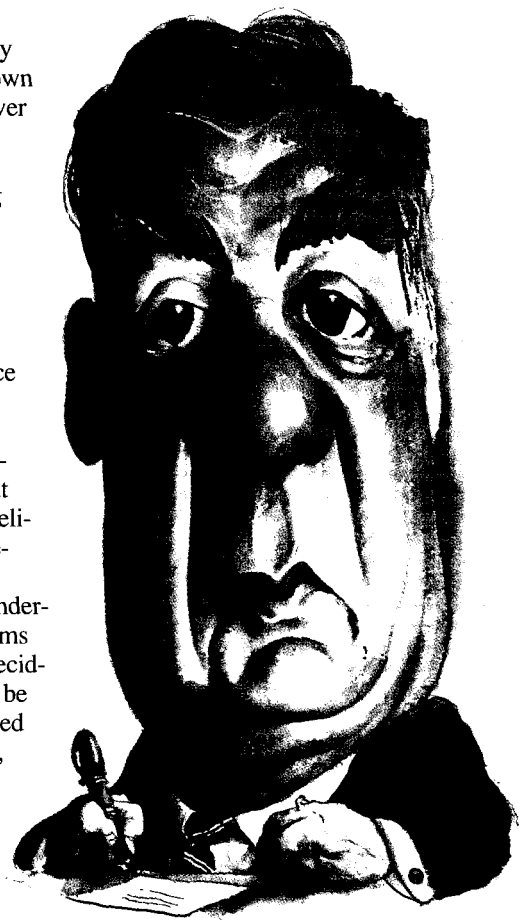
black smoke. A passing police car ignored the problem—which made me think: Over the years, I've seen literally hundreds of polluting vehicles, often large buses or trucks that were obviously doing a lot of damage to air quality, and I have never seen one of them stopped by the police....

When those two Army helicopters were shot down by our own Air Force over northern Iraq killing 26 people, the Air Force investigated and, among other things, reported that the helicopters had their electronic identification devices on the wrong frequency. This was no small matter since the devices should have enabled the Air Force pilots to tell that the helicopters were not foes but friends. Why were the helicopters on the wrong frequency? The Air Force report was silent—for understandable reasons. It seems that the Air Force had decided the frequency should be changed but had neglected to tell the Army about it, so the Army helicopters flew to their destruction not knowing their identification devices were on the wrong frequency....

Where is the new blood this government needs? This year federal agencies will hire little more than one-fourth the number of new employees that entered government service in 1989. And the government is still not aggressively recruiting the best people for the jobs that are open.

At the same time the government is doing almost nothing to assure that it gets rid of turkeys and drones during the downsizing that is going on. People are leaving or being retained on the basis of seniority and/or willingness to accept a buyout, not on the basis of their ability. One agency, the General Accounting Office, is asking Congress for "permission" to do



what common sense dictates every agency should be doing as it reduces its size—"give more weight to performance" and "less weight to factors such as length of service."

Is *The Washington Monthly* the only magazine that cares about the quality of civil servants? If others don't begin to care pretty quick, they're going to find themselves stuck with a government dominated by the turkeys and drones....

Another matter that this magazine has seemed almost alone in caring about is what happens when a family-owned company goes public. An example of the dangers of such a move is provided by the recent closing of *New York Newsday* by the Times Mirror company. If the Chandler family had retained ownership of Times Mirror, they would have been free to keep the New York paper alive even if it wasn't making money. But once Times Mirror sold its stock to the general public, it incurred an obligation to maximize profits for the benefit of its shareholders. "The stock market demands quarterly profit improvement," writes William Glaberson of *The New York Times*. "For public companies, there is no time to wait for long-term investment to pay off."

That may be a slight exaggeration, but it is certainly true that a privately held company is much freer to care less about maximizing profit, and more about such matters as the quality of its product and the happiness of its employees—as well as protecting the environment—than the company that always has to worry about the extent to which such concerns might threaten that quarterly profit improvement....

In its July/August issue, *American Lawyer* rates the top 100 firms. These ratings are eagerly read by lawyers all over the country and not only express but also influence the values of the legal profession. Gross revenue determines the rank, but an accompanying article by editor Steven Brill points out that it is not gross revenue but revenue per lawyer that is the "ultimate measure of the health of any law firm." Not the kind of law you practice, not the kind of client you represent, but the money you make. *American Lawyer* does give firms grades on pro bono work, but it is not until you get to the firm ranked 22nd in the

Roman Genn

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"American Lawyer 100" that you find an "A" for pro bono....

When I was a Peace Corps bureaucrat, I recall that we went to considerable trouble to put our best foot forward when press and congressional investigators were planning to take a look at our operation. We would, for example, suggest they look at our Malaysia and Kenya programs, which were both showpieces, and not go to the San Francisco Valley of Brazil or the islands of Micronesia, where we had disasters on our hands. We would subtly remind them of the scenic beauty of Malaysia and Kenya and of the tigers and elephants they might see in the former and the lions, elephants, and other exotic animals that were all over the game parks of the latter.

But I don't think our efforts to gild the lily ever went quite as far as those of the INS officials in charge of the Miami detention center.

Learning that congressional investigators were on their way to the center and fearing charges that the center was overcrowded, the INS officials arranged to have the excess detainees removed. One group was temporarily paroled into the community, one was shipped to other INS facilities, and a third was taken on a bus trip to Key West and Tampa.

The ploy so outraged some employees of the center that they signed a letter to Representative Elton Gallegly, the head of the investigatory congressional group, blowing the whistle on their bosses in Miami.

The lesson from all this is that the CIA is not the only federal agency that conceals its dirty linen. Both media and congressional investigators need to be eternally vigilant lest they be conned.

Speaking of bureaucratic cons, I should have alerted you to another one in connection with the item about the danger of budget cuts to the Office of Surface Mining. It is possible, although I think unlikely in this case, that the agency's threat of the loss of inspectors is phony. Many agencies, when faced with a budget cut, immediately proclaim that it would hurt their most important functions, such as mine inspection, when in fact there are a lot of planning analysts sitting around the office doing crossword puzzles who could and should be fired instead. The problem with the Republican budget cutters is that they don't care about making the distinction because they would just as soon cut muscle as fat. After all, inspectors are a threat to their pals, the mine owners, while the planning analysts are always good for another excuse to laugh at government....

—*Charles Peters*

New from the author of The Levittowners!

One of our most incisive social critics probes the reasons why perjorative labels have been used to relegate a wide variety of people to a single condemned class, feared and despised by the rest of society.

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Tidbits & Outrages

DON'T ASK ABOUT HIS PETRIFIED FOREST

When Melanie Griffith was on Capitol Hill lobbying for the National Endowment for the Arts, she was approached in the hallway by Newt Gingrich. "Do you want to see my dinosaur?" the Speaker asked.

NO PROMITHES

An ad in a Pensacola, Fla. newspaper offered a full set of upper and lower dentures for $298. The fine print read, "No representation is made about the quality of dental services to be performed or the expertise of the dentist performing such services."

FROM THE COUNTRY THAT INSPIRED *1984*

The New York Times reported that Russian negotiators reached an agreement with representatives of Chechnya to end the fighting there. Chechnya can call itself an independent state, as long as it remains a part of Russia.

THE SEVENTH COMMANDMENT IS JUST A SUGGESTION

Richard Holloway, the Bishop of Edinburgh, explained recently that "promiscuous genes" were responsible for men cheating on their wives. His reasoning is simple: "God knew when he made us he had given us a built-in sex drive to go out and sow our seeds."

AT LEAST WE KNOW HE WASN'T COACHED

In December, Michael Monahan—on trial for first-degree murder in Castle Rock, Colorado—interrupted his lawyer's opening statement. The jury needs to know, Monahan said, "that [my lawyer's] rendition is just as much bullshit as [the prosecutor's]."

FOR $10 MORE THE WARDEN WILL LEAVE A MINT ON YOUR PILLOW

The City of Fullerton, California is renting out special jail cells for $100 a night to convicts who are willing to pay to "avoid serving time in a county jail." No drug addicts, pregnant women or "mentally deranged" allowed. "All pay-for-stay inmates will be segregated in private or semi-private cells as inmate population allows. In cases when a cell must be shared, they will be housed only with other pay-for-stay inmates, not with the regular jail population."

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The Dark Side of Camp

Why irony and detachment sometimes add up to nastiness and snobbery

BY GARETH COOK

"Mommy, show them what they might win!" screams Babette from the front of the bar. Babette is the young game-show hostess, dressed in a frilly maroon dress and long silver gloves. A recent track from Pizzicato Five (a Japanese mambo band) thumps loudly and out dances Bianca, a red head in a black evening gown. Bianca shimmies to the front with the next prize, a small (scented) gold crown. Bianca is a man.

Welcome to the grand prize round of "Drag Freak Bingo" at the Andalusian Dog, a Salvador Dali-inspired bar on Washington D.C.'s U Street. The rules tonight are simple: A set of bingo cards will cost you seven dollars. The broken crayons to mark your card are free. Bianca and his partner-in-drag, Biatta—he's the one with the pearls and the trumpet—call the numbers from a table draped with gold lamé. And crowd participation is a must: If they ask a question, you *will* scream.

"How many people," Biatta asks with an ironic smile and a hand on his hip, "have country-western rumpus rooms in their homes?" Everybody hoots. Then laughter.

There's no question that "Drag Freak Bingo" is strange. But it's also strangely common. "Camp," an ironic taste for the outrageously tasteless, has gone from being an obscure sensibility with murky roots in the gay subculture to a cultural mainstay. Sure, bingo led by drag queens is mostly a playful and harmless diversion—I laughed until it hurt and I'll go back. But I have come to recognize that camp also has a nasty side.

It can be difficult to get a handle on camp. "It's terribly hard to define," says a character in Christopher Isherwood's 1956 novel *The World in Evening*, probably the first explicit discussion of camp. "You have to meditate on it and feel it intuitively, like Lao Tse's *Tao*." Anyone who has ever sent a tacky postcard to a friend, knowing that they would "get it," understands camp, but a more precise definition is difficult to come by.

The *American Heritage Dictionary* comes close: "An affectation or appreciation of manners and tastes commonly thought to be outlandish, vulgar, or banal." The word is derived from the French verb *camper*, to perform—to strike a pose, as Madonna would say. Camp usually has a "life-as-theater,"

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quality to it. You show off tastes that everyone *knows* are not your own. Camp is often rich with exaggeration. It is always heavy on irony: *I just* love *those bell bottoms.*

Examples are everywhere. Most video stores now have a "cult classics" section for movies that celebrate the vulgar, like John Waters' gross-out *Pink Flamingos* or Russ Meyer's *Faster Pussycat! Kill! Kill!*. Comedy Central's "Mystery Science Theatre 3,000" makes fun of old (and bad) sci-fi movies; and "Nick at Nite," with reruns of sit-coms like "Welcome Back, Kotter" and "Mr. Ed," is Camp TV. Meanwhile, *The Encyclopedia of Bad Taste* is a national bestseller. And *Pulp Fiction*, the super-hip movie hit, relies on the audience to get camp—you're supposed to smirk when John Travolta and Uma Thurman go to the "Jack Rabbit Slim's" diner. "The culture now," says Johns Hopkins critic Mark Crispin Miller, "is saturated with camp."

Funny as camp can be, its dark side is hard to deny. When Dave Letterman shines the kleig lights on seemingly clueless working class foils, teasing them for the benefit of an über-hip New York audience, he shows that mass camp can be smug, snobbish, and even mean. Even Drag Freak Bingo got laughs with "white trash" prizes like the crown air freshener. Camp has come to play on—and feed—some of the nation's most damaging social divisions.

Gone Camping

Thirty years ago, when Susan Sontag described the then-obscure phenomenon in her brilliant essay, "Notes on Camp," she praised it. "Camp taste is, above all, a mode of enjoyment, of appreciation—not judgement," she argued. "Camp is generous." At that time, of course, the nation's economy was on a seemingly endless upward trajectory, and the middle classes were the prime beneficiaries. The spread of the old status markers—home ownership, steady, well-paying jobs, and access to universities, expanded through the GI Bill—seemed to point to a new social equality. There was hope that social class was receding as a dividing wall, that inheritance and the family name were being eclipsed in importance by achievement. ("I'm an American," says *Pulp Fiction*'s Butch, "our names don't mean shit.")

Another change was taken as a positive sign: Taste was replacing the older, more permanent signs of social status. People are not "upper-class," the new thinking went, they just have great taste. And, unlike class, taste was something you didn't have to be born with—conceivably, everybody could have it. *My Fair Lady*, the most successful Broadway musical of the fifties, centered on the notion that taste could be taught: You too, it said, could be Eliza Doolittle. Just know the right wines, learn the right artists, and make a trip to (or at least read about) Europe. The foreign travel poster was a dorm room staple of the time.

Finally, in the sixties, as the counterculture mushroomed, many hailed the end of cultural elitism. As pop-nihilist Andy Warhol quirkily put it in his 1970 book, *Popism*, "It was fun to see the Museum of Modern Art people next to the teenyboppers next to the amphetamine queens next to the fashion editors."

It might seem that the camp which now surrounds us is evidence that class did indeed disappear. Knowingly embracing bad taste, it could be said, is a way of rejecting class distinctions: *I'm going to wear ugly clothes and I don't care what you think.*

In fact, the proliferation of camp shows that Americans are still obsessed by class. With college diplomas and Florida vacations more widely available, the upper-crust needs a new way of distinguishing itself. Look closely at camp and you'll see that, for the young and the hip, "anything goes" is clearly not the rule. The idea is to show that you have enough taste to choose the *right* bad taste.

Across town from the Andalusian Dog, in glitzier (and safer) Georgetown, is a store that has practically perfected the art of feeding this obsession: Urban Outfitters. Here, for the newest generation striving to distinguish themselves, there is camp for sale.

Located on some of the city's toniest commercial real estate, the store has done everything it can to cultivate the appearance of a run-down

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warehouse. Two large windows on either side of the entrance have been carefully cracked. Inside, the brick walls have been left exposed. Electrical wires, thin pipes, and air conditioning ducts run naked across the ceiling. Newly-installed floorboards of old wood squeak underfoot as you browse.

On its racks for young women is one of today's trendiest looks, the "kinderslut." It combines mock-Midwestern schoolgirl sweet with trashy makeup and an ironic, knowing attitude. All the accessories are here: bright-plastic barrettes, red "Hello Kitty" pencil cases, plastic charms, tiny backpacks—and plenty of pink. Central to the look is the baby T-shirt. A blue "Juicy" brand tee, for example, has a crown imprinted on it with the words "Prom Queen." One teenage girl even had her mother there to help pick out just the right baby tee: *The wrong one would be a disaster at school.*

On college campuses, meanwhile, camp is now the key to displaying a finely developed sense of taste. To know just the right trash, and to embrace it with the proper irony, is an art form.

Camp tyros might have a poster from the original Batman series or some memorabilia—*a vintage plaid shirt, perhaps?*—from *The Brady Bunch Movie*. Higher up the camp ladder, though, are the Japanese import "Power Rangers": posters, lunch boxes, or, even better, a "Mighty Morphin Power Rangers Megazord Computer-Game Wristwatch" like my 20-year-old brother Alex got for only $8.75 (and a proof-of-purchase from Kix corn puffs). These decorations are announcements—"I get it; I've got sauce"—just as clearly as a street sign, hung over a bed, says "I stole this." Most campers readily admit that camp taste has its high standards just like any other: God help you if you show up at an early-eighties party decked out like Greg Brady.

But another kind of snobbery is less conscious—and more corrosive. Consider a recent snippet from the WXYC radio station at the University of North Carolina at Chapel Hill. With an audible snicker, the DJ introduced samples from "Six Days on the Road," a compilation of songs from real-live truck drivers. The snickering—*Can you believe those truckers?*—is all the evidence you need that this sort of imitation is not exactly flattery. Integral to the camp sensibility is a mocking and superior attitude toward the lower classes, especially poor whites.

"My friends were always talking about how we're going to go to one of those 'monster truck shows'," one college kid told me. "We were all going to wear NASCAR T-shirts, preferably one with one of the drivers, like that guy Rusty Wallace, and we'd get baseball caps with mesh backs and something like 'NAPA Auto Parts' written on it. Or 'Black & Decker.' Or 'Caterpillar.'"

Poor whites are the one group that even the most touchy-feely liberals seem to feel fully licensed to mock without remorse. The stereotyped images—a dirt front yard with rusted out car carcasses, dogs, pink flamingoes, and plenty of inbred kids running about—are camp standard bearers, and acceptable parts of the public dialogue. *The New York Times,* in stories about Tonya Harding, glibly referred to "trailer trash."

Although the viciousness is all too clear, this assault on poor whites actually springs from America's romance with the idea of egalitarianism—the myth that social class is entirely fluid. Everyone concedes the presence of a substantial black underclass, but that can at least be rationalized as a legacy of slavery and segregation. The presence of large blocks of poor whites, on the other hand, seems to contradict explicitly the idea of upward mobility. Unless, of course, the poor whites in question are lazy or stupid or both. "White trash" is a convenient notion that allows us to maintain the idea that social advancement is based on talent: Their plight, we reason, is entirely their fault.

This mind game is not a new one. In 1860, Daniel Hundly wrote in *Social Relations in Our Southern States* that poor whites are "about the laziest two-legged animals that walk erect on the face of the Earth. Even their motions are slow, and their speech is a sickening drawl ... while their thoughts and ideas seem likewise to crawl along at a snail's pace."

Vietnam, as James Fallows has written in these pages, sharpened this worldview—and gave it modern currency. Many college kids felt comfortable avoiding the draft while others died because those "others" were just that. *You know, they probably wouldn't have amounted to much anyway.* Since then, this meanness has spread. Camp has even made it cool.

Pulp Fiction has a scene that underscores this perception of Vietnam—and shows how camp

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brilliantly blends condescension and entertainment. Christopher Walken, playing Captain Koons, visits the son of a man that he had spent years with in a Vietnam prison camp. Koons has brought the boy, named Butch, his "great-granddaddy's war watch." Butch's father had it on his wrist when he was captured. "So he hid it in the one place he knew he could hide something'. His ass. Five long years, he wore this watch up his ass. Then when he died of dysentery ... I hid this uncomfortable hunk of metal up my ass for two years.... And now, little man, I give the watch to you." As Butch takes the watch, the audience groans and laughs. *You know the crass type that fought the war.*

Poor whites are the one group that even the most touchy-feely liberals feel free to mock without remorse.

So when today's elite take up what they imagine to be the accouterments of poor whites, it is a way of saying "I am royalty; I would never seriously wear this stuff." As Benjamin DeMott points out in *The Imperial Middle*, we are "talking class while denying explicitly or implicitly that class is meant." The camp sensibility, in other words, allows you to square the circle: You are seemingly in touch with the common man—a real democrat—even as you show you are above him. The purest distillation of this is the working-class top—the shirt of a gas station attendant or team bowler, with a monosyllabic name like "Mike" or "Joe" stitched on the pocket—that is so popular among prep school and college kids.

Typical of this attitude is *The Encyclopedia of Bad Taste* by Jane and Michael Stern. This best-seller, an exhaustive codification of modern camp, claims to be appreciative of bad taste. But its smug attitude toward the lower classes is barely veiled. And with the book as your guide, you can show your superiority by joining them, if only with a smirk, in the mud.

Take the authors' description of the mobile home. It is, they say, "a veritable Taj Mahal in crimped aluminum.... You want landscaping? Where but around a mobile home will you find conservatories of perpetual plastic topiary; pastel pompons and pink flamingoes on sticks; statues of elves, gnomes, jockeys (white and black), lazy barefoot Mexicans with their donkeys...."

One of the favorite topics is working-class food. There are entries for Cool Whip, Fish Sticks, Spam, Twinkies, TV Dinners, Wonder Bread, Cheeze Whiz, Hamburger Helper, and more. Eating any of these would be hopelessly declassé, unless it were done ironically: Tuna casserole, they tell us, "anchor[s] the low end of the culinary hierarchy, with no hope of upward mobility." But Spam on a T-shirt—now that's cool.

The Sterns really let loose with their description of heavy metal music. "Nobody of any refinement," they declare, "has stepped forward to champion heavy metal. Because of this fact, metal remains in its own way the purest sort of rock and roll." That their appreciation is expressed with a wink and a nod, however, is made clear by what comes next: "It is all about Sturm und Drang and braggadocio, drinking lots of Jack Daniel's, having a gigantic penis, and taking so many drugs your head explodes." *You know that loser kid in the trailer park who likes Spam on Wonderbread? He likes heavy metal, too.*

Friends of mine show the same kind of voyeuristic snobbery when they watch "Ricki Lake," one of the rising queens of daytime talk. The hostess herself starred in camp films (like John Waters's *Hairspray*) and now she's brought her act to television. Outrageous, and usually trashy, guests are brought on—"I'm Too Much Woman for Just One Man" was a topic the other day for overweight nymphomaniacs—and derided. On campuses, kids gather to watch every day. Kind of like going to the zoo.

Stay up later, and there's David Letterman, mean-spirited in a way that the old king of late night, Johnny Carson, never was. It used to be that Dave was mean to everybody—he would skewer Bo Derek, then turn around and skewer the guy on the street. These days, after his network jump and time shift, Dave is nice to his guests—at times almost unctuous. His saves his wit for his favorite foil: the earnest, often ignorant, working class guy. He'll have someone go into McDonalds to see how the poor slobs react to somebody ordering a "five pounder" instead of a "quarter pounder."

One of his most popular shticks has been Mujibur and Sirajul, two Bangladeshi salesmen who peddle cheesy memorabilia in a nearby souvenir

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store. They are bumbling, not that proficient with English, struggling to achieve the good life in America. Perfect. Dave sends them on a four week tour of the United States. Every so often, he checks in: "Boys, boys, boys, how are ya?"

Then: "Was that your first NBA game?," asks Dave of the two, who stand awkwardly holding a microphone.

Pause.

"It was good," responds one. You can feel the audience slyly smiling.

How was Niagara Falls?

"It was very nice."

And St. Louis?

"St. Louis was also very nice."

And Mt. Rushmore?

"Very good," they answer. Dave chuckles and the audience roars. *Those two! (With the funny names.) Visiting all those typical middle-American tourist spots. I've got to get one of those Mujibur and Sirajul commemorative T-shirts.*

MTV's "Beavis & Butt-Head," another leading cultural indicator, is based on camp. The show revolves around the two heroes watching (mostly) bad videos. The rest of the show tracks the stupid adventures of two suburban white trash boys. And yes, they wear heavy metal T-shirts: AC/DC and Metallica.

I've laughed at "Beavis & Butt-Head"—I even do a fair Butt-Head impression. But I can't help thinking that something twisted is happening in the popular mind, especially within my media-infused generation. When Sontag wrote "Notes on Camp" in 1964, she lauded the mindset as a balance to the tragedies and traumas that loomed so large in the public mind. The country had just fought two horrible wars, was entering another, and it had just lost a young president to a hail of gunfire. Camp was light, detached, funny—and fun.

These days, though, camp's irony and detachment are everywhere, almost to the point where they threaten to squeeze somber, reflective thoughts out of the national conversation. For sure, irony can be a powerful critical tool—any comedian knows that. But "camp" can also be a way of avoiding choices and responsibility. If all the world's a stage, and absurd, then why engage it at all?

Camp acts as a balm to the conscience. It allows us to feel the rush of superiority to those we see as our social lessers, but without the guilt. It is a kind of *faux* compassion. We pretend we care, like Letterman does with his Everyman foils. Meanwhile, in very concrete ways, our worst prejudices prevail. People who can't dress or talk just right are cast aside. The "hillbilly" is turned away from a school for which he is qualified; *he just didn't seem very bright*. The "trashy-looking" woman with heavy make-up and sprayed hair is passed over for a job; *she just didn't seem trustworthy*. These class barriers aren't just a cultural flaw—they are a deep social pathology, keeping down people who could do great things.

The most disturbing example of this at work, Jonathan Alter recently argued in *Newsweek*, is what's happening to our public schools. Once the best way of bringing the next generation together—and of assuring that its best and brightest, regardless of background, would be given a chance to achieve—the schools are now being abandoned. Parents who can afford it flee to the suburbs or send their kids away to private schools. The rest are stuck behind.

The country is separating, and the next generation will be even more divided. But we're numbing up, and feeling good about it.

I can't help being reminded of Beavis and Butt-Head. "What's so funny about them is everyone knows kids like that," one girl explained to me. *Too little ambition, too dumb, too talentless—the public schools are filled with those people. Better, probably, to let them sink.*

Cool. □

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WHAT'S HOT at the APSA Annual Meeting

On August 30, 5500 political scientists will congregate in Chicago for the American Political Science Association's annual meeting. Thousands of papers will be presented, representing the breadth of the field, as well as the hot topics in 1995. The Monthly *asked a few of the country's top political scientists which papers are likely to be most interesting. Their picks:*

DAVID KING teaches public policy at Harvard's John F. Kennedy School of Government. His next book, *Border Wars: How Congressional Committees Fight for Turf on Capitol Hill*, will be published next year.

1. "Producing Legislation: An Empirical Assessment of Divided Control in the American National Government" by Bryan Jones, Jeffrey Talber, and Glen Krutz
2. "The Scope and Limits of Business Power: Revisiting the Origins of the American Welfare State" by Paul Pierson
3. "Social Network Methods in the Study of Political Influence" by David Lazer
4. "State Indecisis: The Alteration of Precedent on the Supreme Court" by Saul Brenner and Harold J. Spaeth
5. "Theories of the Party in the Legislature and the Transition to Republican Rule in Congress" by John Aldrich and David Rohde
6. "Legislative Rhetoric, Statutory Interpretation, and the Structure of Modern Civil Rights Legislation" by Daniel Rodriguez and Barry Weingast
7. "Social Networks and Political Participation" by Sidney Verba, Kay Schlozman, and Henry Brady
8. "The Determinants of Legislative Turnover: A Cross-National Study" by Richard Matland and Donley Studlar
9. "Populistic Deliberation: The Zoe Baird Uprising" by Benjamin Page and Jason Tannenbaum
10. "Citizen Groups, Political Parties, and the Decline of the Democrats" by Jeffrey Berry

BARBARA SINCLAIR is a professor of political science at the University of California, Riverside. Her most recent book is *Legislators, Leaders, and Lawmaking*.

1. "The Appointment Paradox: Obstacles to Hitting the Ground Running" by Richard Waterman and Joseph Stewart Jr.
2. "Homicide on the Hill, Catastrophe in Congress: Did the Voting Rights Act Do It?" by Lisa Handley, Bernard Grofman, and Wayne Arden
3. "The Role of the Mass Media in Americans' Distaste for Congress" by Elizabeth Theiss-Morse and John R. Hibbing
4. "Social Networks and Political Participation" by Sidney Verba, Kay Schlozman, and Henry Brady
5. "Voter Rationality and Voter Retribution: The 1994 Elections to the U.S. House of Representatives" by Alan Abramowitz and Suzi Ishikawa
6. "Theories of the Party in the Legislature and the Transition to Republican Rule in Congress" by John Aldrich and David Rohde
7. "Discordant Discourse: News, Talk, and Advertising in a Presidential Campaign" by Ann Crigler and Marion Just
8. "Clinton and the Economy: Unaccustomed Success?" by M. Stephen Weatherford
9. "Mobilizing the Law for Social Change: Sexual Harassment Decisions" by Anna-Maria Marshall
10. "Producing Legislation: An Empirical Assessment of Divided Control in the American National Government" by Bryan Jones, Jeffrey Talbert, and Glen Krutz

JEAN BETHKE ELSHSTAIN, author of *Democracy on Trial*, is a professor of social and political ethics at the University of Chicago.

1. "Mill on Liberty and Virtue" by Peter Berkowitz
2. "Immigration: Elites and Nation-Building" by Rogers M. Smith
3."Kant's Liberal Politics: Perpetual Peace after 200 Years" by Patrick Riley
4. "Women and Courage in Greek and Jewish Political Thought" by Nancy Schwartz
5. "Augustine's Confessions and the Ambiguity of Evil" by Joanna V. Scott
6. "Cooperation and Hostility Between Morality and Aesthetics" by George Kateb
7. "Post-Liberal Reflections on Justice" by Fred Dallmayr
8. "Liberalism and the American Political Condition" by Michael Sandel
9. "Reading *Ruth*: Dilemma Narratives and the Politics of Founding" by Bonnie Honig
10. "Beyond Liberal 'Sphere Talk': A Proposal" by Marion Smiley

BILL GALSTON, a professor at the University of Maryland's School of Public Affairs, was, until recently, deputy assistant to President Clinton for domestic policy. He is author of *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State*.

1. "Civic Duty and Voter Turnout in the Liberal State" by James R. McCorkell, Pamela Conover, and Donald D. Searing
2. "The Effectiveness of Negative Campaigning" by Gerald Pomper and Richard R. Lau
3. "Partisan Consequences of Majority-Minority Districts" by John Petrocik
4. "Immigration and Liberal Democracy" by Joseph Carens
5. "Liberalism and Pluralism: An Uneasy Alliance" by Alan Ryan
6. "Liberalism and the American Political Condition" by Michael Sandel
7. "Social Networks and Political Participation" by Sidney Verba, Kay Schlozman, and Henry Brady
8 "Domestic Constraints on American Foreign Policy in the Post-Cold War World" by Robert Lieber
9. "News Decisions: The Impact of Journalists' Partisanship" by Thomas Patterson
10. "The Failure of Incumbency: Reflections on the 1994 U.S. Congressional Elections" by Douglas Rivers, John Ferejohn, and Brian Gaines

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Why Clinton Wishes He Were JFK

It's not just the President who seems lost in the Washington power labyrinth. The culture has changed, and everyone is searching for a roadmap

BY RICHARD REEVES

"Prigogine" was the vice president's answer. Albert Gore Jr.—son of a senator, raised in Washington, himself a member of Congress from 1977 to 1992—was explaining to me, right before the 1994 election, his theory about what has changed over the years in the nation's capital.

Ilya Prigogine is a Belgian physicist (Russian-born) who won the Nobel Prize in 1977 for his work in thermodynamics. "If you look at a system with more and more energy and matter coming in," Gore said, "it will spontaneously reorganize itself into a more complicated system. Something different will come out, but what it is can't be predicted beforehand."

Gore picked up a pen and drew a diagram: a pipeline leading into an empty chamber, representing Washington, and another pipeline leading out. More molecules poured in: more matter, more energy, more heat, more information, new news cycles, new action-reaction-action-reaction, faster and faster. Pow! Something happens inside—Gore scrawls a new world in the chamber—and then something different comes out the other end. Inside there are new men, new women, new media, new money, new information, new relationships: a new Washington.

Gore's sketch is part of the answer to what must be the central question of the Clinton presidency: How could Bill Clinton, the most talented politician of his generation, seem so baffled so much of the time? The answer is that the capital is on overload, different from what he knew and different from what he expected, and, soon, different from what it was when he arrived. Even those who have spent all their lives here are at a loss. Information—decentralized, accelerating, and increasingly bewildering—drives Washington. Decision-making is high-speed and interactive; analysis and adjustment are reactive and continuous. "These changes," concluded Gore, "are not friendly to the linear debate envisioned by the Founding Fathers."

The electronic din is robbing presidents of

Richard Reeves, a syndicated columnist and author of President Kennedy: Profile of Power, *is currently writing a book on the presidency of Richard Nixon.*

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what had previously been their greatest power: the ability to shape and control the flow of information to the nation. The president's voice is now one among many, along with those of Rush Limbaugh, *The New York Times*, *The National Enquirer,* the CIA, the Pharmaceutical Manufacturers Association, Larry King, and you and me. Even an old newspaper staple, the story-behind-the-story, has been overtaken by a different beast: the story-*before*-the-story. In the fall of 1993, when two *Los Angeles Times* reporters went to Little Rock to check out a new round of rumors about Clinton's sex life, California Republican Robert Dornan took to Limbaugh's program to announce that the paper was about to publish. "Is this democratization," Washington veteran and former White House Counsel Lloyd Cutler asked me, "or disintegration?"

"I envy Kennedy having an enemy," Clinton says.

The President's leadership model has been John F. Kennedy, the man who he says inspired his life in politics. But this isn't Kennedy's Washington. As soon as the 1992 election was over Clinton tried, as Kennedy had done, to ally himself with liberal congressional leaders. But there was no Speaker Sam Rayburn this time. The weary Democrats Clinton inherited, George Mitchell and Tom Foley, had lost touch and grasp. "The most striking thing when we came here was that there was no leadership in the Congress," Secretary of the Interior Bruce Babbitt said just before the mid-term elections. "The institution had been disaggregated. There was a different coalition for every issue—like a pick-up basketball game. You were always starting over, putting 535 cards on the wall everyday."

The framers' great deliberative body had shattered into 535 independent contractors whose fates were tied more to the television than to any president. Instead of following their leaders, the Democrats sought public favor by challenging them. (Though it may have been impossible for any Democratic president to take control of a party that was ideologically broad enough to stretch from Maxine Waters of California to Richard Shelby of Alabama.)

Or consider Jim Cooper, a six-term, 41-year old moderate Democratic congressman from Tennessee whom Clinton called "a good friend." He was among the first to oppose the Clinton health care plan openly, proposing an alternative that was not nearly as different from the Clinton proposal as his maverick rhetoric indicated. Cooper was also one of only 55 Democrats in the House to vote against the Clinton crime bill. "Of course we're all angry at Washington," intoned Cooper's principal television commercial in his race for Vice President Gore's old Senate seat last year. "So is Jim Cooper, but he's done more than talk.... He stood like a rock [on health care reform.] And a president retreated...."

The White House reaction was to dispatch Vice President Gore home to Tennessee to campaign and raise money (more than $250,000) for Cooper. "What kind of politics is that?" I asked Clinton. His answer: "If it works and gets him elected, that's his business." Cooper lost anyway.

He was defeated by the Republican lawyer-actor Fred Thompson, who wore red flannel shirts and campaigned in a leased Chevy pick-up, more or less denying that he even knew the way to Washington, even though he had earned $208,000 there as a lobbyist in the 18 months before the election.

The press, too, has changed. The dominant members of the press corps in the new Washington have insider credentials as good as Cooper's. And more than a few make more money than Thompson. For the "reporters" who are television regulars, lectures alone can produce more income than the new senator made lobbying and lawyering. And the celebrities among them are a good deal more famous than the people they cover—when they are in town. "We all know how it works," I was told by David Gergen (who certainly does). "You write something provocative enough to get on

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television, then you say something even more provocative on television and then you make the big money on lecture dates around the country."

Anthony Lake, Clinton's national security advisor, who also began his advising in the Nixon White House, added this: "When I first came here, if you wanted to know what a reporter really thought about the people and issues he covered you had to get drunk with him. Maybe a couple of times. Now I just turn on television to find out what they think."

When Lake was last in town, working for President Carter in the seventies, *New York Times* reporters were generally prohibited from appearing on television. Now the good, grey lady has a public relations agent trying to get her reporters on television shows, partly because the exposure makes those reporters more desirable leaking partners for the chatterers on Lake's own staff and the entrepreneurs at the other end of Pennsylvania Avenue.

In the Clinton White House the doors are all closed—often because someone is inside on the phone with a favored and famous reporter.

From the President down, the Clinton White House is obsessed with the press—as well they should be. This president has not only lost control of the flow of information to the nation, he has little control over the flow of information to himself.

One day last August, I was talking to Lake and found him in despair over Elaine Sciolino's story on page one of *The New York Times*. The headline read: "TOP U. S. OFFICIALS DIVIDED IN DEBATE ON INVADING HAITI." Sciolino had written:

> "This division became evident, officials said, at a meeting of Clinton's top national security advisors on Tuesday at the White House. The meeting had been called to draw up recommendations for the President.
>
> "Defense Secretary William J. Perry opposed a recommendation that would set a deadline for an invasion if the Haitian military leaders did not leave.... But Deputy Secretary of State Strobe Talbott ... is said to favor an early invasion.
>
> "In a sharp exchange, Mr. Perry countered that Mr. Talbott represented a strange morality. He argued that it would be immoral for the United States not to do whatever it could to avoid the loss of lives of American soldiers and the expenditure of taxpayers' money...."

The piece went on for 30 paragraphs, reporting the arguments of and among "the principals." There had been only eight people in the room on the ground floor of the White House, yet Sciolino got it exactly right—practically word-for-word, according to Lake. So one or more of the eight principals must have passed the recommendations on to the *Times* (and the world) before they even got to the President.

Ten weeks later, Clinton and Gore were still talking about the Sciolino story, telling me in separate interviews that they thought they were close to finding the culprit. Dialogue inside the transparent White House is becoming more and more distorted as the meetings get smaller and smaller and less and less is put in writing to stop leaks. "You lose expertise, you lose precision," said Lake. "People are afraid to speak their minds, or they say things precisely because they want them to be in tomorrow's *Washington Post*."

That is not how it was in the old days. Reporters—James "Scotty" Reston, the old Washington bureau chief of *The New York Times*, is the best example—felt they had a responsibility to both public and president. Sam Donaldson would laugh at that. And the President's men were not always freelance networkers, sucking up to big name correspondents without term limits.

This is how it looked to Hugh Sidey, the designated "insider" of *Time* and *Life* magazines in the sixties, who wrote this of the Kennedy years: "The White House doors were open.... A reporter could tour the offices of the intimates ... and get precisely the same view-

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point from each man."

In the Clinton White House the doors are all closed, not because of a sense of secrecy, but often because someone inside is on the phone with a favored and famous reporter, giving his version of something that just happened inside the Oval Office. There is in the White House staff's willingness, even eagerness, to leak to the press an adolescent stargazing: Imagine this, Mom!—here I am chatting with Bob Woodward, or talking to Cokie Roberts about what she said on *Nightline*.

In spite of the President's fury with the leaking, he does not seem to have fully confronted his own role in fueling it. Clinton told me that he was greatly impressed with Kennedy's ability to hold decisions open for so long without constantly being called indecisive. "How did he do that?" Clinton asked. The answer was that Kennedy's men knew what would happen to them if they ever leaked stories of his private indecision. (When Kennedy suspected Chester Bowles, one of his closest advisors, of trying to make himself look good by letting it be known that he had opposed the Bay of Pigs decision, Bowles was ejected from the inner circle. Clinton's staff lives with no such fear.) And Kennedy did not analyze and agonize over his decisions in public. That is what I should have said, but I did not have the courage to tell my President in person that he should consider shutting up sometimes.

One of Clinton's true links to the president of his youth is that, like Kennedy, Clinton thrives on chaos. As Kennedy did, Clinton describes his running of the White House as being at the center of a wheel, as opposed to presidents like Dwight Eisenhower and Ronald Reagan, whose organizational styles were top-down. There is a fundamental difference between men who run things from the top and those who want to be at the center of the action. It's lonely at the top, and Clinton does not like being alone.

Men like Clinton (and Kennedy) are addicted to action. For restless, impatient, excitement-driven politicians, life can be a race against boredom. Chaos is power, a way of controlling other people by keeping them off-balance. The President may need a disciplined and organized chief of staff (and wife), but when Leon Panetta tried to move out Press Secretary Dee Dee Myers, she was able to run puffy-eyed to the President and win a reprieve—reminding everyone, including Panetta, how decisions are really made in the White House.

Clinton astonished me in a conversation about Kennedy's style by saying that he was fascinated reading about the disorganization in that White House and glad that he had no problems like that. He mentioned a May 1961 memo from Kennedy's national security adviser, McGeorge Bundy, to the President, saying:

> "I hope you'll be in a good mood when you read this.... We do have a problem of management; centrally it is a problem of your use of time. We can't get you to sit still.... The National Security Council, for example, really cannot work for you unless you authorize work schedules that do not get upset from day to day. Calling three meetings in five days is foolish—and putting them off for six weeks at a time is just as bad...."

In October and November of 1993, Secretary of State Warren Christopher, then-Defense Secretary Les Aspin, and NSC chief Lake got together to send Clinton a series of memos almost pleading with him to give them one hour a week to discuss international affairs. Clinton finally said "yes," scrawling at the bottom of the last memo, "When possible." It turned out it was possible only once, on November 12.

Labor Secretary Robert Reich, who was a Rhodes Scholar with Clinton at Oxford, sees a generational change at work. "The revolts of the sixties were very much in reaction to the hierarchical society we inherited," says Reich. "I've decided a lot of it is deliberate, not just at the White House, but in my own department as well. I'm much more comfortable making decisions sitting around a table with assistants then sitting at a desk checking a box."

I asked Clinton how much of the sixties anti-authoritarianism he still carries with him. "Quite a bit," he answered. "I mean, I share a lot of this sort of populist skepticism about Washington, which is one of the things that is frustrating to me when I identify with it, just

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because I can't cut through the fog that often surrounds us now and touch the American people."

In 1993, my wife and I were in the White House because the President was reading a book I had written about President Kennedy. We talked for a couple of hours, much of it about the differences between being president now, and when the nation was united in determination to win the Cold War. "I envy Kennedy having an enemy," Clinton said, thinking it must have been a good deal easier to sell programs and ideas negatively, just by shouting that the Russians were coming. "The question now is how to persuade people they should do things when they are not immediately threatened," he said. "Believe me, it's harder to do it positively."

Almost exactly a year later, he told me a story about being president in this time. I had asked him why he felt he had to be on television so much. "The inference there is wrong—that I want to be on television every night.... Because President Reagan was shot, the press takes the position that they have an absolute right to be with me wherever I am spending the night."

"You have to live in a prison," Clinton continued. "Let me give you an example. I went to western Pennsylvania recently, and we had ten thousand people in a little town called—what was that called? Anyway, it was wonderful ... for a health care rally. And I was fascinated because on the way in, it was two whole miles of nothing but auto body shops, muffler shops, auto repair shops, and car dealerships. I've never seen anything like it. And all these guys were out there, you know, not exactly my constituency.

"At any other time I would have stopped and had a visit with those people. You know, I couldn't stop and have a visit with those people because the entire press corps would have stopped, and if they could have gotten two people to say something bad, then that might have been the story on television that night."

"So I had to sit there, like a Buddha in chains." □

Who's Who

If you were hoping **Ben Bradlee**'s forthcoming memoir, *A Good Life*, would finally reveal the identity o Deep Throat, **Bob Woodward** and **Carl Bernstein**' mysterious source for many of their Watergate scoops i *The Washington Post*, you're doomed to disappoint ment—there's not even a smidgen of a hint. Among th many possibilities, including **David Gergen**, **Alexande Haig**, and **L. Patrick Gray**, our favorite remains **Fre Fielding**. As **John Dean**'s deputy at the Nixon Whit House, he was in a position to know more than the other and has long been known as one of Washington's mor talkative leakers. Interestingly enough, a dozen or s years after Watergate, a source of ours attended a sma party given by Bradlee and his wife **Sally Quinn**, wher most of the guests were *Post* biggies like **Woodwar** and **Katharine Graham**, along with a few other journal ists and public officials. Fielding, by then a Washingto attorney in private practice, was the one guest wh seemed not to belong, unless....

Another mystery we all hoped Bradlee would clear u was the 1964 murder of his sister-in-law, **Mary Pincho Meyer**, **John Kennedy**'s last lover and the former wif of senior CIA official **Cord Meyer**. Bradlee does con firm that when he arrived at Meyer's home immediatel after her death, he found it being ransacked by his frien **James Jesus Angleton**, then the CIA's top countersp Later, Bradlee caught the persistent spook picking th lock of Meyer's studio. He chose not to report thes events to the readers of the *Post*, a good many of whom we suspect, would have found them interesting....

We hear that **Bill Clinton**'s 1996 campaign may b run by **Eli Segal**, who is being replaced as Americorp director by **Harris Wofford**, and by **Harold Ickes**. Se gal is clearly liked by most of the Clintonites. The sam cannot be said of Ickes, but he is known to have **Hillar Clinton**'s support—among other things he's a clos friend of her close friend, **Susan Thomases**. Perhap most important, Bill Clinton credits Ickes with havin done an outstanding job in staging the 1992 conventio and in helping him carry the New York primary th year....

Remember **Senator Lauch Faircloth**'s success i persuading **Judge David Sentelle** to dump Whitewat prosecutor **Robert Fiske** and replace him with **Kennet Starr**? You might be interested to know that six month later Sentelle's wife received a job in Faircloth's o fice....

"An impeccable source reports," a recent front-pag story in *The Arkansas Times* stated, "that at least tw

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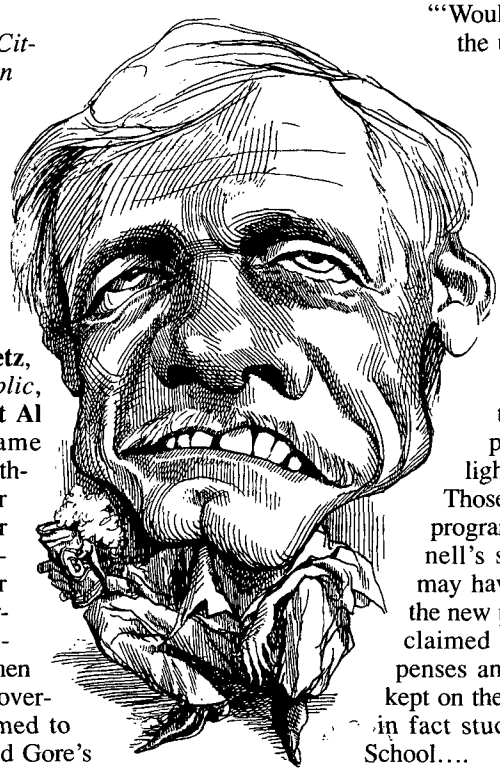
Ben Bradlee's secrets…Clinton's campaign corps… Starr says "Talk dirty to me."…

/itnesses before **[Kenneth] Starr**'s grand jury say they ave been asked questions about the sex lives of **Presi-ent** and **Hillary Clinton**. Yes, we said Hillary, too."…

It is our sad duty to report that the romance between **ianca Jagger** and **Representative Robert Torricelli** as broken up. According to a mutual friend who spoke *The New York Post*'s "Page 6," "their busy schedules nd many political commitments made maintaining ıeir relationship too hard."…

Peter Collier, in his review of *Cit-zen Turner* in *The Washington 'ost*, accuses CNN mogul **Ted 'urner**, "when he was not runk or in bed with a coed," f having spent his college ears "singing Nazi songs under ıe window of Jewish students nd putting KKK signs on the oors of Brown's few blacks."…



We all knew that **Martin Peretz**, ıe publisher of *The New Republic*, as influence with **Vice President Al ore**, but just how much became lear when Peretz got Gore to with-raw a $70,000 per-year job offer Harvard faculty member **ichard Marius**, who was to be-ome a full-time speechwriter for ore. The last time Gore saw Mar-ıs, he told him "You're our sav-ır!" according to Marius. But when eretz told Gore that Marius was over-/ critical of Israel, Marius seemed to ose his savior status overnight and Gore's ob offer was withdrawn....

We also know that **Newt Gingrich** is a futurist. But I et you didn't know the extent of his dedication. One of is first acts as a beginning congressman 16 years ago /as to introduce legislation to permit U.S. space colonies qualify for statehood....

Another example of **Gingrich**'s clouded crystal ball oncerns the stock market. Financial columnist **Dan orfman** recently revealed that three of the four stocks ingrich owned in 1994 were lemons....

Still speaking of the Speaker, his predecesors **Tom 'oley**, **Jim Wright**, and **Tip O'Neill** each had one secu-ty guard. **Newt** has nine....

When New Jersey Governor **Christine Todd W...-man** was substituting as host on **Larry King**'s CNN show, she had one of those experiences that politicians dread. *The Philadelphia Inquirer*'s **Gwen Florio** (not related to Whitman's predecessor) captured the moment:

"When it came time for the program's call-in segment, Whitman announced with pleasure that one of the callers was from Toms River, New Jersey. Her smile faded immediately as the woman began to speak, directing a question to [Whitman's guest]:

"'Would you please ask the governor what the unemployment rate is in New Jersey and what she's doing hosting 'Larry King Live' instead of sitting in Trenton?'" There was more, but the question was abruptly cut off—the only call that got that treatment."…

Lawrence O'Donnell, who as **Pat Moynihan**'s No. 1 staff member on the Senate Finance Committee, had become one of the least popular men in Washington—"I am liked by about eight people in this city," he once said—delighted his enemies by resigning in July. Those who worked on the Clinton health program are especially bitter about O'Donnell's sabotage of their efforts. But what may have sunk him are reports in *The Hill*, the new paper covering Congress, that he had claimed $10,000 in questionable travel expenses and paid $26,000 to a friend who he kept on the Senate payroll while the friend was in fact studying at Syracuse University Law School....

Robert Dole's campaign to ingratiate himself with religious conservatives is being undermined by reports about his subordinates. The chief of staff in his Senate office, **Sheila Burke**, is being accused of closet liberalism, and the chief media strategist of his campaign, **Stuart Stevens**, has published a novel that features, among other exotica, adulterous sexual relations in a parking lot and a member of Congress accused of having a secret homosexual encounter with three transvestites....

My source for the Stuart Stevens item and for several others in this column is *The Washington Times*, which may be more conservative than the *Monthly* but sure does dish some delicious dirt....

—*Susan Threadgill*

Roman Genn

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Regulatory Reform: The Case for Common Sense

An Interview with Philip K. Howard

It's not every day that the author of a book on rules and regulations gets invited onto "Oprah," but Philip K. Howard is just such an author. His book, *The Death of Common Sense*, has spent six months on *The New York Times'* best seller list and has 295,000 copies in print. Howard argues that regulation has become disconnected from the humans who must enforce and live with it. The problem has its roots in the Enlightenment, he argues, and in the noble but misguided principle that "reason" can be achieved through uniform rules that anticipate every conceivable circumstance. Howard argues convincingly that these rules—which are at the heart of modern agencies like the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA)—have had the perverse effect of eliminating common sense from the equation.

Take the Glen-Gery brick factory in Pennsylvania, Howard says. Instead of examining the real hazards of this workplace, OSHA applies a set of uniform rules, requires the factory to fill out hundreds of forms, and insists on enforcing the letter of the law. The factory has been cited for having railings 40 inches high, rather than the required 42 inches. With all that wasted energy, OSHA can't focus on what really might put workers in danger. "It is as if OSHA's goal, the safety of workers, is obscured from view by all the rules intended to advance it," Howard writes. "What we need is a system focused on goals and results, not rules and process." He applies this simple but powerful point to everything from government contracting to the courts to schools and hospitals.

Regulatory reform is a hot topic in Washington and state capitals this summer, and Howard helped light the fire. He has been consulted at length by President Clinton and Senate Majority Leader Bob Dole, as well as numerous agency heads and governors. But with Howard's book being waved all over Capitol Hill and beyond, it's tough to discern just what the author and "government by principle" guru stands for when it comes to policy. *Monthly* Editor Joshua Wolf Shenk looked for answers in the following interview.

Monthly: *Some people have the impression from your book that you're against regulation. But that's*

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not true, is it?

Howard: Of course not. I want clean water and good meat and safe airplanes, and so does most everyone I know. And building codes and rules to protect disabled children. I also don't mind that it costs big business money to behave responsibly. We need to have certain standards, and government has a role there.

My point is that government rarely works sensibly, and a large part of the reason is the reams of detailed rules that try to account for every conceivable situation and end up choking the whole process. Just because environmental laws work terribly doesn't mean the government shouldn't protect the environment. The goal of the Superfund legislation is an important one. No one wants their kids playing near a toxic dump. But the law was written in such a way that all dumps are to be treated exactly alike. It doesn't allow the flexibility that's required to deal with a complicated situation.

I'm not saying you can eliminate all rules; they're important in some cases. But if you apply the rule to a specific situation and it's obviously stupid—like forcing a company to install expensive smokestack scrubbers when 90 percent of its pollution is coming from liquid chemicals—then the regulator needs to be able to adjust to that reality.

Here's the problem, though. Often, if not always, these detailed rules are written because we fear dumb or corrupt civil servants. Some of them need to have everything spelled out. What about the guy who shows poor judgment time after time?

First let me explain what I mean by "common sense." It's not a single truth, some absolute wisdom, but the responsibility to make sense of any given situation. Often the "common sense solution" is the result of a dialogue or an argument between, say, the safety inspector and the foreman, or between the citizen seeking a permit and the bureaucrat behind the desk. In today's regulatory system, the official has no opportunity to adjust for circumstances.

In my book I talk about this fellow Paul Atkinson, a farmer in Eugene, Oregon. A few years ago an inspector told Atkinson his pasteurizing vat—he made cheese on this farm—was not of the standard design. But there was nothing wrong with the cheese. It was plenty clean, and the inspector knew that. It was just a pointless ritual. And it was useless to complain. Anyone who has tried to argue with an inspector or a bureaucrat knows what happens. Their eyes glaze over. Their job is just to follow the rules.

Now, there are also legitimate concerns about the quality of our civil service. You have to have good people doing these jobs, and you have to keep folks on their toes. In some ways, and for some people, government has turned into a kind of public dole. In order to have a system in which you give people discretion and allow them to use their judgment, you need to be able to hold people accountable for bad decisions. Today, you can barely fire people who don't come into work.

It's amazing to me that public employee unions defend bad performers, as if the people who pay the price aren't their co-workers. It's incredibly dispiriting to work with slackards. And when there are bad civil servants, they cast all government into disrepute. That's how most citizens see government—through the people they have contact with.

So should civil service reform be a top priority in any scheme for regulatory reform?

No question about it. The civil service is there for a reason—to keep the system from being completely politicized. But we need to balance stability with the need to hold people accountable. Having people make decisions and take responsibility is really central to this whole undertaking.

It would also help the civil service if we give up this idea that we can eliminate risk by codifying every little detail. If you want someone to have the opportunity to do good, that always carries with it the opportunity to do bad. We suffer from "catastrophobia." We try so hard to eliminate the most remote risks—doctors ordering CAT-scans for headaches, for example—that we are unable to accomplish very much. What was that regulator thinking when he shut down the cheese-pasteurizing vat? He was thinking, "I could get into trouble if I break the rules." He wasn't thinking, "I need to figure out what works in this situation."

Give people responsibility and then check up on them. Clear-cutting the procedures would allow us to shine a spotlight on decision-makers.

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Then we could beef up the spot audit staff dramatically to check on them. This applies to everything from procurement in the Pentagon to local motor vehicle bureaus to state environmental agencies. In defense contracting, we could save tens of billions of dollars if we let the contract officers use their judgment and take responsibility, instead of putting legal manacles on them every step they take.

Do you share the Monthly's *belief that we should beef up, not cut down, the GAO and the offices of Inspectors General? I mean, it's not just the workers in the field that need checking up on, but their bosses too. Sometimes a whole division can be screwed up.*

It's amazing to me that the public employee unions defend bad performers, as if the people who pay the price aren't their co-workers.

Absolutely. The auditing functions of government ought to be very strong and very independent, and need to be up to date. In order to give the public the confidence to allow officials to take responsibility, we need to give them the confidence that there's a reasonable chance that the cheaters will get caught. As it stands, auditors are second-class citizens in the government.

You've been all over Capitol Hill this summer and Republicans can't stop talking about your book. But isn't the core of their agenda for regulatory reform putting tons more requirements on bureaucrats with moratoriums and cost-benefit analyses? Doesn't that run counter to your basic premise, that we need to have fewer rules, not more?

The Republicans have it at least half right. Unfortunately, that doesn't necessarily lead to a better situation. Where they're right is in arguing that many regulations cannot be justified in any sensible view of cost-benefit analysis. Take an easy example. Spending $100 million to eliminate a hazard that will save one life doesn't make much sense if we can save 1,000 lives spending that same money in another way. The classic example of this is the Delaney clause, which says that no element in a food additive is allowed if it can have a carcinogenic effect in animals. Well, as science has gotten steadily more sophisticated, spinach can barely pass that test.

So yes, measuring the costs versus the benefits is a useful tool in reanalyzing all those systems. But Republicans seem to think that cost-benefit analyses solve the problem, which is where they go wrong.

Sensible regulation, like most everything else in life, is ultimately about value judgments. The advantage of cost-benefit analysis is that it gives you a framework to view the facts, and then see the value judgment that underlies the decision. Aircraft safety is a good example. You could add up the cost of all the fail safe mechanisms that go into airplane design and FAA certifications and divide that by the number of lives lost. You would come up with a very high cost-per-life-saved. Compared to other regulations, it's a very high number. But that makes sense. We place enormous value on airplane safety. There's an all-or-nothing aspect to being up in a plane. You can't swerve onto the shoulder if something goes wrong.

In other words, cost-benefit analyses get you data, but you still have to interpret the data.

Yes. A cost-benefit analysis by itself is just a tool, not an ultimate answer. There is a value judgment in there and we have to recognize that.

Now, the final Dole bill that never got to the floor was amended to contain a definition of "benefit and cost" that permitted unquantifiable factors. In other words, it allowed us to consider making people feel safe on airplanes as a "benefit." That's a good thing. But the bill still increased dramatically the right of private parties to sue over costs versus benefits. What does that do? It forces the judge to make a value judgment.

I'd argue that those judgments should be made by the agencies, with congressional oversight. When you take away their discretion, the regulators become like wood statues. That's what's really frustrating to the American people—not when bureaucrats make the wrong decision, but when they can't make decisions at all. We think of judicial review as being a harmless thing. Why not let people sue over every little problem? But you have to consider the practical consequences. No one likes being sued, and agencies are no exceptions. What happens when every little deci-

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sion gets thrown into the courts is that agencies write rules to protect themselves. They want to be able to go to the judge and say, "I followed the rule."

And this starts with Congress trying to avoid accountability itself?

Well, yes. I mean, start with the Administrative Procedures Act, the APA. What it really is is a Substitute for Democracy Act. Congress is supposed to write rules and regulations, but it doesn't. It delegates that authority to agencies, which aren't democratically elected. So the APA contains the rules that the agencies are supposed to follow to make rules—and it's greatly complicated by judicial decisions. The net effect is that the ballot box gets replaced by a procedural mill. Rule-making proceedings make the O.J. Simpson trial seem crisp and efficient. It takes an average of seven years for the FDA to approve a new rule. Some rules have been in the proposal stage for decades.

What Congress should do—instead of putting all this energy into directing the agencies on how to make rules—is dig in themselves. Newt Gingrich has a good idea, to have a "corrections day" to replace silly rules. I'd like to see a "corrections year" during which Congress cleans out decades of detailed rules and replaces them with simple goals and guidelines that are actually understandable. The beauty is, Congress doesn't need procedures. It's Congress. They can pass a law that says "Hot dogs are illegal." Well, then they would get kicked out of office by angry baseball fans. But that's how the republic is supposed to work. If things get hidden under layers and layers of process, then there's no one to blame.

One of the worst elements of the Republicans' plan for regulatory reform is that they want to make it even harder to pass a new rule. What they don't get is that the harder it is to pass a new rule, the harder it is to get rid of an old rule. They may think they're doing big business a favor by letting them sue to block a new rule. But then it's easier for Ralph Nader to sue to prevent amending an old rule. The real crisis in regulation isn't in the new rules, but in the old ones—some 100 million words worth. Under the Republican plan we'll never get it cleaned up.

On the federal level, what are some specific rules that you'd like to see eliminated and what would you replace them with?

All you have to do is pick up any volume of the code of federal regulations and start thumbing through. OSHA doesn't need a rule to define a shower, or a long description of what a hammer is. Can you imagine the dialogue? "Harry, is that a shower or a buzzsaw?"

The detail of regulatory law would stun most people—and it's there not for any constructive purpose, but to try to keep out any human judgment. The problem is, the stuff gets so complicated that no one understands it. And the rulebooks are so dense that no one actually reads them. How many foreman have actually read the whole of OSHA's rules? Probably none.

I believe several hundred pages of OSHA rules could be replaced by one sentence: "Tools and equipment should be reasonably suited for the use intended, in accordance with industry standards." There's room for some disagreement, but not a lot. Principles go a long way.

To be fair, there are some rules—toxic hazard limits are a good example—where you need explicit limits. No general principle is going to tell you how much benzene or cotton dust is tolerable. But in cases where rules need to be precise, bureaucrats also need the power to make exceptions. You reported a good example of this in the early eighties. There was this big pile of lime sludge in Minneapolis, and it could have been easily used for agriculture or something—it could have actually made money for the state—but because it had a pH higher than 12, EPA rules said it was hazardous. And no one had the power to make an exception. I would just insist that when regulators do waive a rule, they put it on the public record, and explain why.

That way, instead of everything being buried in incomprehensible rules, you get it out in the open.

That's my point. Give officials some rope, and see what they do. Let's put it this way: Why do you think Washington is so boring? You all resort to cheap thrills, with special counsels and babysitter's taxes and chasing out congressmen because they bounced some checks. It's because no one makes decisions. Process is inherently uninteresting.

Now imagine if all those executive agencies were filled with people standing up and taking responsibility. Newspapers would have a field

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day. And that's where we really need the power of the press, where government is really making a difference in people's lives. If that regulator in Oregon had the power to make a decision, and he made the stupid one anyway, then send in the hounds. The poor judgment of the bureaucrat in that case will make it unlikely that he ever gets responsibility again.

And some of those stupid judgments end up in the courts, don't they? We were talking before about the problem of judges making value judgments. But isn't that inevitable to some extent?

First, I honestly believe that letting regulators have substantive discussions with the people they're regulating and make informed decisions will limit the number of lawsuits. But yes, to some extent the courts will always be involved. You have to have an appeal mechanism.

The problem now is that the arguments that get to judges are over process, not over the substance—the majority of administrative litigation today comes from procedural challenges. If a company wants to challenge a bad decision, it doesn't say, "This was a bad decision." It says, "He didn't follow the rules correctly." Pristine process becomes a form of blackmail to drag hearings on for years. That's the reason rulemaking takes so damn long.

The right to sue over procedure should be sharply curtailed. Judges should be focusing on what really matters: Was the rule interpreted properly? Is it a bad rule? Let the courts take one bite of the apple over substance, and end it. Take a decision on dredging a harbor. If there is going to be litigation, let the judge decide whether dredging is reasonable, not whether the environmental impact statement correctly described the alluvial movement of harbor bottoms on page 652.

What about all these procedural lawsuits—are they partly a fault of the judges themselves?

Judges, like bureaucrats, have come to see their role as managing the process, not making judgments based on what they believe is right. It's a field day for lawyers and litigants: It's as if they say, "Be as disingenuous as you like—talk any kind of nonsense—and I'll listen with respect. Any plausible theory will do." But this isn't what "judicial neutrality" is all about. Appellate courts should reread Justice Cardozo. What he said is that judges are supposed to be impartial, not brain-dead, not purged of intuition and values. The job of judges, which has been forgotten, is not to act like referees. The job of judges is to judge.

Judges, like bureaucrats, have come to see their role as managing process, not making judgments based on what they believe is right.

What's the principal danger of governing by principle?

I guess the greatest danger is that decisions will only be as good as the society in which they are made. If Americans have poor training or poor values, that will be reflected in our judgments. State-sponsored segregation, to go back to a sore point, existed for a century after the Fourteenth Amendment.

My complaint with our current system, which promises to cure human nature with detailed legal rules, is that it fails to cure our defects and doesn't allow our good side, our energy, our common sense, to come out. We'll never have a perfect system, but humans can do amazing things as long as we're not being crushed under a huge mountain of rules.

That's why, when it comes to regulatory reform, I'm sympathetic when Republicans get angry with the agencies and want to tell them exactly what to do. Bureaucrats make great scapegoats. But we need to be constructive. Instead of wagging their fingers at the agencies and putting more restrictions on them—which will make things worse—the Republicans need to give them the leeway to get it right.

In some sense, you need to separate "regulatory reform" from what we're trying to do with regulations. Let's get the process cleaned up, and then we can talk about, you know, how many acres of wetlands we want to preserve, and so forth. People will always disagree, and there will always be fights in Congress—fights about the "value judgments" I've talked so much about. But the way it is now, you can't make new rules, you can't get rid of old rules. You're stuck. □

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Memo of the Month

United States
Department of
Agriculture
Washington, D.C.

20 years of service and dedication to USDA women's equality, furthering the potential of all women and men in USDA

July 10, 1995

Subject: Nominations for Women's Equality Day Awards

To: Under Secretaries
Assistant Secretaries
Agency Heads

From: Linda Followell, President

Background

Women won the right to vote with the ratification of the Nineteenth Amendment to the Constitution on August 26, 1920. In 1973, a Presidential Proclamation declared August 26 to be Women's Equality Day.

Each year, the Women's Action Taskforce (WAT) celebrates this victory by presenting awards to recognize outstanding commitment to and support for women. Awards are presented at the Women's Equality Day Awards ceremony to USDA employees, supervisors, and agencies.

WAT, a USDA chartered women's organization, has served USDA employees for over 20 years with programs, training, and scholarships.

Award Categories

WAT will present awards to:

- one USDA agency that has advanced the careers of women
- three supervisors who have been diligent in hiring and/or promoting qualified women.
- three individuals who have voluntarily served women.

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Act Now—There's Still Time To Stop the "Revolution"

The *Monthly* Pull-out Guide to the GOP's Most Dangerous Ideas

It's harvest time for the Republican Congress. The seeds of the "Republican Revolution," planted with the introduction of the Contract With America, have grown from ideas, to proposals, to bills. Now, as Congress approaches the deadline for appropriations, the real business of deciding what will become law has begun. "Our goal is to get everything to the President's desk by October 1," Speaker Newt Gingrich said recently.

What follows is a list of Republican proposals that the Monthly *considers to be grave threats to the economic and social well-being of the country. Each will be taken up in some form by Congress this fall. One bill would let industry pollute our air. Another would give employers a free pass to endanger the safety of their employees. Republicans would also raise taxes on the working poor, and lower them on the affluent.*

It is not too late, of course. With a strong stand by congressional Democrats (that means no missing votes—see box, page 32) and the aid of the small but pivotal group of moderate Republicans (see list, also on page 32), the most noxious of the Republican proposals can be stopped. Let your congressmen know what you think of the following ideas—before they become laws. —*Daniel Franklin*

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ivileged

THE BAD IDEA	WHO WINS	WHO LOSES	THE BOTTOM LINE
TAX CUTS FOR THE RICH	*the wealthy*	*the rest of us*	If it weren't for a little thing called "the deficit," tax cuts would be fine, as long as they went to those who most need them. But there is a deficit, and over half the benefits of the GOP tax cut will go to families earning more than $100,000, while only 5 percent will go to those with incomes less than $30,000. (Conference Report 104-159)
REPEALING THE SOCIAL SECURITY MEANS-TAX	*affluent elderly*	*future generations*	The GOP, so eager to tear into the federal benefits of the poor, are ready to rescind President Clinton's tax on affluent Social Security recipients. Clinton had earmarked the tax revenue for Medicare. Since everyone agrees that Medicare is in trouble, why drop some of its revenue? (104-159)
GRAZING RIGHTS	*western ranchers*	*the owners of federal lands: you*	Ranchers have been allowed to graze their cattle on federal lands for below-market rates for years. The GOP's "Livestock Grazing Act" would broaden the scam by subsidizing the artificially low rates. (S 852, HR 1713)
SECURITIES REFORM	*fraudulent companies and investment firms*	*small-time investors*	The GOP had an opportunity to address one of the major scams in the legal system, collusive securities class action suits, in which defendants are let off easy and the only ones who clean up are the lawyers, not the victims. Instead, the Republican proposal merely makes it harder for any anti-fraud suit to proceed, legitimate or not. (S 240, HR 1058)
TELECOM DEREGULATION	*telecom giants, i.e. Rupert Murdoch*	*smaller companies, TV watchers, telephone users*	The GOP telecommunications bill allows new concentrations of media power by lifting restrictions on ownership monopolies in cable and phone service, guaranteeing higher rates for the average user. (HR 1555, S 652)

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	THE BAD IDEA	WHO WINS	WHO LOSES	THE BOTTOM LINE
sticking it to the poor	REPEALING THE EARNED INCOME TAX CREDIT	*the wealthy, whose tax cut this helps finance*	*the working poor*	One of Clinton's strongest initiatives, the EITC lowers taxes on those who most deserve a break, the working poor. While there has been some abuse of the EITC, that only means we need to improve it, not slice it to ribbons. The GOP's budget cuts the EITC by $21 billion over the next seven years, in effect *raising* taxes on those who can least afford it. (104-159)
	CUTTING AND BLOCK-GRANTING MEDICAID	*stingy governors*	*sick, poor people*	The GOP hopes to save money by slowing Medicaid's growth and passing control to the states. The block grants are invitations to the states to reduce the quality and scope of the program that offers health care to the country's poor and disabled. (104-159)
	CUTTING HEAD START	*unclear*	*poor kids*	The GOP plans to cut $137 million from this program, which offers preschool education and health care to the country's poorest children. As a result, fewer children will be enrolled and those that are will see reduced benefits. (HR 2127)
continuing to fund bad ideas	REVIVING "STAR WARS"	*the defense industry*	*the taxpayer*	Not only will completing the program suck up $25 to $40 billion, but it puts the United States in violation of the 1972 Anti-Ballistic Missile Treaty with Russia. (S 1026)
	CONTINUING THE B-2, F-22, AND SEAWOLF SUBMARINE	*The defense industry, districts with defense plants*	*the taxpayer*	Though analysts insist that these expensive toys are anachronisms in the post-Cold War era, each has been given new life by parochial congressmen seeking to protect the jobs the weapons offer their states and districts. The House defense appropriations bill at least cuts the Seawolf, and the Senate doesn't fund the B-2, but look for both to be included in the final conference report. (S 1026, HR 2126)
cutting good ideas	ELIMINATING AMERICORPS	*unclear*	*Americans with big hearts but small wallets*	The Republican budget dismantles the country's fledgling national service program, through which people can earn money for college in exchange for much-needed community service. (HR 2099)
	CUTTING CRIME PREVENTION PROGRAMS	*prison builders*	*everybody else*	Not long ago, crime prevention was the darling of left and right alike. George Bush named a midnight basketball league as one of his 1,000 points of light. Despite proven results, the GOP's revision of the crime bill eviscerates Clinton's preemptive strikes against crime. (HR 2076)
	REPEALING THE ASSAULT WEAPON BAN	*hunters with bad aim, homicidal psychos*	*everyone but Superman*	True, Clinton's assault weapon ban doesn't purge the streets of high-powered rifles, but it does make a dent. Kowtowing to the NRA, a GOP pastime, the Republicans want to let the weapons back on the street. (S 3, HR 698)

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THE BAD IDEA	WHO WINS	WHO LOSES	THE BOTTOM LINE
RESTRICTING OSHA'S INSPECTION POWERS	*businesses who don't care about their workers*	*workers*	This would preclude OSHA from investigating or punishing unsafe workplaces unless a worker dies or is seriously injured. The goal of OSHA is and should be to *prevent* workplace injuries. (HR 1834)
MAKING MANY OSHA REGULATIONS VOLUNTARY	*businesses who don't care about their workers*	*workers*	Since OSHA was established in 1970, the worker death rate has been cut in half, and 140,000 deaths have been prevented as a result. The Orwellianly named "Safety and Health Improvement and Regulatory Reform Act" would return us to the days when industry's only check was its own conscience. (HR 1834)
ELIMINATING THE MINE SAFETY AND HEALTH ADMINISTRATION	*the mining industry*	*miners*	Since MSHA was established in 1969, the number of on-the-job mineworker deaths per year has been reduced 80 percent, from 425 to 84. No industry has been more exploitive of its workers and none is more deserving of government scrutiny. (HR 1834)
REMOVING AIR QUALITY REGULATIONS	*people who pollute the air*	*people who breathe the air*	In 1982, 100 million Americans lived in areas where the air was unhealthy; now, 56 million do. But with the work of cleaning our air only half finished, the Republicans see fit to remove most of the restrictions on major polluters such as oil refineries, cement makers, and chemical plants. (HR 2099)
ELIMINATING THE ENVIRONMENTAL TECHNOLOGY INITIATIVE	*no one*	*everyone*	The initiative helps fund research for cheaper and more effective pollution control technologies. The effort to make business more environment-friendly and environmentalism more business-friendly should be applauded by all. (HR 2099)
REPEALING CLEAN WATER STANDARDS	*water polluters, such as the chemical industry*	*anyone who fishes, swims, or drinks water*	The GOP's appropriation bill for the EPA would eliminate restrictions on dumping raw sewage and stormwater runoff, two of the most dangerous causes of pollution. The regulations are relatively inexpensive, but have dramatically improved the country's water quality. More than one-half of all U.S. rivers now meet the Clean Water Act's standards. In 1970, only one-fourth did. (HR 2099)
LOWERING FDA APPROVAL STANDARDS	*drug companies*	*sick people*	The proposal would lower approval standards on drugs and medical devices to the levels employed by France, Germany, and England. The U.S. has the highest standards in the world; it also has the fewest recalls of unsafe drugs of any major Western country.
SHELVING THE NEW MEAT INSPECTION REGULATIONS	*the meat packing industry, bacteria*	*anyone who eats meat, or cares about someone who does*	After decades of "look and sniff" meat inspection, the USDA had finally devised a more sophisticated method and new regulations, which would help prevent the spread of the E. coli virus, which kills more than 500 Americans annually, most of whom are children or elderly. The GOP would derail the new inspection methods and standards because of the "burden" it would place on the meat packing industry, instead relying on methods that haven't been updated since 1906.

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endangering health, cont'd.

THE BAD IDEA	WHO WINS	WHO LOSES	THE BOTTOM LINE
PRIVATIZING THE FDA'S DRUG APPROVAL PROCESS	*drug companies*	*drug takers*	True, the FDA could be speedier when it comes to approving drugs, especially when the drug addresses an urgent need. But this proposal would turn the hen-house to an industry panel of foxes. Needless to say, the pharmaceutical industry has much to gain from rushing drugs onto the market.
GUTTING MEDICARE	*the wealthy, whose tax cut this funds*	*the elderly*	Two years ago, the GOP scorched the earth claiming, inaccurately, that Clinton's health care plan would push everyone into HMOs. Now, they hope to cut Medicare by over $200 billion by doing just that. (104-159). See "The Medicare Solution," page 33.

Reaching Out: Republicans Who Might Make a Difference...

It is crucial in the coming days that Democrats chip away at Republican unity by reaching out to moderate Republicans. What follows is a list of those Republicans who might be convinced to rebel against at least some of their party's excesses.

Senate
Nancy Kassebaum, KS
John Chafee, RI
William Cohen, ME
Mark Hatfield, OR
James Jeffords, VT
William Roth, DE
Olympia Snowe, ME
Arlen Specter, PA

House of Representatives
Charles Bass, NH
Doug Bereuter, NE
Peter Blute, MA
Sherwood Boehlert, NY
Michael Castle, DE
William Clinger, PA
Jennifer Dunn, WA
Vernon Ehlers, MI
Robert Ehrlich, Jr, MD
Harris Fawell, IL
Mark Foley, FL
Tillie Fowler, FL
Bob Franks, NJ
Rodney Frelinghuysen, NJ
Greg Ganske, IA
Wayne Gilchrest, MD
James Greenwood, PA
Steve Gunderson, WI
David Hobson, OH
Martin Hoke, OH
Steve Horn, CA
Amo Houghton, NY
Nancy Johnson, CT
Sue Kelly, NY
Jim Kolbe, AZ
Rick Lazio, NY
Jim Leach, IA
Jim Ross Lightfoot, IA
Ron Lewis, KY
James Longley, Jr., ME
Jim McCrery, LA
Jan Meyers, KS
Susan Molinari, NY
Constance Morella, MD
Ralph Regula, OH
Marge Roukema, NJ
Christopher Shays, CT
Bill Thomas, CA
Peter Torkildsen, MA
Fred Upton, MI

...And Democrats Who Chose Not To

The votes will be extremely close and the consequences grave. Without the full participation of Democratic congressmen, some harmful laws that could have been stopped will be passed. The GOP recently re-introduced 17 anti-environmental provisions to an appropriations bill just three days after they had been defeated. Had any one of these 11 absentees voted, the provisions would have been defeated. Instead, they all passed.

Xavier Becerra, CA
Floyd Flake, NY
Harold Ford, TN
Gene Green, TX
Tony Hall, OH
Joe Moakley, MA
Mel Reynolds, IL
Pete Stark, CA
Karen Thurman, FL
Walter Tucker, CA
Sidney Yates, IL

Make sure your congressman isn't absent without leave when the worst of the GOP proposals come to the floor.

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The Medicare Solution

And why myths, misinformation and mudslinging—from both parties—won't get us there

BY TED MARMOR

Political amnesia—abandoning overnight the position you once staked your political capital on—is nothing new in Washington, but rarely have the reversals been as bold as in the recent debates over health care reform. Throughout the 1993 fight over Clinton's reform plan, Republicans kept Medicare off the table and proclaimed the horrors of managed care. This year, suddenly, they discovered the Medicare crisis. "The choice we face is simple," says Representative John Kasich. "We can either strengthen Medicare and preserve it for current and future beneficiaries, or we can do nothing ... and ensure Medicare's demise." And as a solution, they are trumpeting—you guessed it—managed care.

Democrats who advocated health care reform, meanwhile, are trying to stymie radical change this year by using dire rhetoric that also ends up feeding beneficiaries' fears. "Those who want to gamble with Medicare are asking Americans to bet their lives," President Clinton warned during a celebration of Medicare's 30th anniversary. Congressional Democrats have taken a page straight from Republican strategist Bill Kristol's health care playbook: Deny the problem's seriousness and block your opponents' solution.

For observers of health care politics, the images of politicians thriving on conflict—and journalists obligingly covering every jab and duck—evoke an unshakable sense of déjà vu. The target is narrower. The party in the driver's seat is different. Controlling the deficit, rather than expanding access, is the engine driving reform. But in many respects, the fight over Medicare is shaping up to be much like the last Congress's fight over health care reform. Even many of the same interest groups are squaring off with overblown rhetoric.

Irrational fears based on misinformation helped derail last year's debate. To prevent that this time around, a whole new set of Medicare myths needs debunking. For starters, Medicare doesn't need "saving" or "rescuing" or any of the other hyperbolic turns of phrase the press and politicians use to discuss the program's future. To borrow from

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Ted Marmor, whose books include Understanding Health Care Reform *(1994), teaches politics at the Yale School of Management. The second edition of his book* The Politics of Medicare *(1973) will be published next year by Aldine.*

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Twain, reports of a crisis are greatly exaggerated. Medicare needs fixing, to be sure, both to contain costs and to expand the range of covered services. But that's hard to do rationally in a climate of confusion. As political temperatures run high, deficit pressures mount, and the whole process collides with presidential politics, what's best for Medicare and American medical care as a whole may get short shrift.

The Republicans assume that the market—in the form of vouchers for private HMOs—will save Medicare. But in truth, it is possible to control Medicare's costs and improve its coverage without a wholesale conversion to HMOs. The stakes here are enormous. Medicare reform done badly will only worsen the problems of the elderly, the uninsured, and the underinsured. No reform at all will worsen the problems of the federal budget. But done right, Medicare reform could be a first step toward universal health insurance, showing that not only is the government the only party willing to cover people private insurers won't touch, but that it can control costs and quality when it does so.

The Road to Nowhere

Medicare's enactment 30 years ago, in fact, was to lead to universal health coverage. Since before World War I, the idea of national health insurance had fallen in and out of favor as America's economic fortunes fluctuated. With strong public support, New Deal liberals had come close to incorporating universal health insurance into the emerging welfare state, but conservatives in Congress blocked the effort. So reformers revised their approach, adopting an incremental strategy that at first would cover only Social Security beneficiaries, and the idea of Medicare was born.

Restricting the program to the elderly was not what social reformers really wanted—it was what they believed they could get. The same pragmatism shaped the program itself. In the face of opposition from the medical establishment, Medicare was to begin with only 60-day hospital insurance; physician services were at first excluded. When doctor visits finally were included, they were funded separately, from beneficiary-paid premiums and general revenues, rather than Social Security financing. That was the historical accident that divided Medicare into Hospital Insurance (part A) and Supplementary Medical Insurance (part B).

Politically, this worked. But in its incipient form, Medicare couldn't come near to fulfilling what its designers promised: to protect the elderly from the unbudgetable expenses of illness. After all, the program excluded long-term care, the catastrophic expenses of chronic illness, and prescription drugs. But it was assumed that more benefits would follow for the elderly, and that eventually, eligibility would be expanded to include most, if not all, of the population. In the context of the Great Society, the Medicare law of 1965 was seen as but a first step on the road to more accessible and affordable medical care for all Americans.

Medicare's proponents were far too optimistic. America has never been able to enact universal government health coverage. That's why today the U.S. is the world's only industrial democracy with compulsory health insurance for only its elderly. Equally important, Medicare itself was never restructured to better serve the distinctive needs of its target population, and its flaws today very much reflect its understandably flawed design 30 years ago. Due to the need to placate an uneasy medical establishment, the program was shaped and defined by what it was not.

That's why the program omits coverage of those services that are arguably what the elderly need most. With the provision of only acute hospital care and intermittent physician treatment, Medicare simply does not provide adequate coverage for many elderly Americans, particularly the frail elderly who require comprehensive and continuing care. Older Americans often have conditions, such as adult-onset diabetes and hypertension, that will not improve dramatically over time. Yet Medicare does not pay for either insulin, which costs $50 to $100 a month, or hypertension medication, which costs $75 to $125 per month.

Another flaw in Medicare's original design—the omission of a global budget—plagues the program today. No limit was placed on what the government would pay for its beneficiaries' care. Again, Medicare's proponents feared spooking the medical establishment. They thought keeping a hands-off approach was es-

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sential to getting the program in place. But the lack of a mechanism to control costs turned out to have massive unforeseen consequences.

In the program's first years, benefit and payment arrangements were adopted to appease providers preemptively. The government agreed to pay "reasonable costs" and "reasonable and customary charges"—whatever the providers receiving the checks thought was reasonable, that is. Such vague standards became sure-fire openings for gaming the system and encouraging inflation in medical prices. By having private insurers act as intermediaries between Medicare administrators and doctors and hospitals, government further weakened its capacity to control costs. The program's leaders recognized these inflationary dangers, but they were seen as a necessary price to avoid the confrontations cost control would inevitably have brought.

Mythstakes

Contrary to popular belief and seemingly informed commentary, however, Medicare's record of cost control has not been one of uniform failure. Ignorance of that fact gives rise to the first myth clouding the Medicare debate:

• **Medicare's costs are uncontrollable.** In its first five years, growth in the program's expenditures was indeed explosive, rising over 70 percent from 1967 to 1971. Over the same period, the number insured by Medicare rose only 6 percent. Throughout the seventies, Medicare costs grew significantly, but so did the rest of the medical economy, which, like Medicare, lacked cost control and felt the burden of developments in medical technology and techniques that proved extraordinarily expensive. In the first half of the eighties, Medicare grew more rapidly than American medical care generally—but in the second half, through 1991, Medicare rose *less* rapidly.

That change was no accident. Driven by the ghosts of inflation past and deficits future, the federal government in the early eighties began making significant regulatory adjustments in the way it paid its providers, most notably by setting uniform hospital rates for particular treatments. The government cut what it paid, not what it covered. The result was a slowdown in the growth of medical expenditures without a loss of benefits.

Controls for hospital costs were much tighter than for physician costs, and in the late eighties growth in expenditures for doctors' payments hovered around 15 percent a year. Over the same period, growth in expenditures for hospital insurance dropped from around 15 percent to 2 or 3 percent annually.

The lesson of the eighties—that Medicare has the instruments of control when it has the will and congressional support to use them—has been lost. And so we come to the second major myth of Medicare, fueled by politicians of both parties and accepted unquestioningly by much of the press:

• **The program is hurtling towards bankruptcy in 2002.** *The New York Times* and *The Washington Post*, for example, rustle up the trust fund's looming bankruptcy as standard context in every Medicare story, without bothering to analyze what it actually means or whether it matters. "A major part of the program, the trust fund that pays hospital bills for the elderly, is projected to go bankrupt by 2002," the *Times*' Todd Purdum wrote after a

A Year in the Life of the Supreme Court

Rodney A. Smolla, editor

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rally celebrating Medicare's 30th anniversary. Political rhetoric runs apace: "Whether we balance the budget or not, Medicare goes belly up in 2002," House Commerce Chairman Thomas Bliley warned recently.

Feeding this hysteria is the corollary myth of the bankrupt trust fund. First of all, the trust fund does not include supplementary medical insurance—so it's not relevant to a big chunk of the program. What's more important to understand, though, is that the trust fund is simply an accounting term, designed to illustrate how expenditures balance against tax revenues. It is *not* a bank account; its checks will not bounce.

If it chooses, Congress can appropriate more money to Medicare; it can change the tax schedule, and so on. To say that "by law" Medicare beneficiaries will stop receiving hospital benefits in 2002 is to imply that laws are immutable. The only thing that matters is whether Congress will raise taxes to meet expenditures, or control expenditures to stay within revenues. The affordability of the program is indeed a significant issue, but to focus on the trust fund as a symbol occludes, rather than illuminates, the debate.

Finally, one more myth that has taken root:

• **Cost-shifting is inevitable.** In other words, the idea that reducing what Medicare pays doctors and hospitals will mean a larger bill for other patients. It's true that, in the eighties, cost-shifting was a real problem. As Medicare instituted cost control, hospitals used private insurers or other patients' bills to make up the difference. In the 1992 campaign, a Bush Administration plan to cap Medicare expenditures became a hot issue when Clinton warned that, without wider medical care reforms, hospitals would likely make up the lost revenues by shifting costs to employers who would shed millions of jobs as a result.

The fear was legitimate, because expenditures weren't being well-controlled in the rest of the medical economy. That's no longer true. One positive effect of the dismal health care debate has been intense awareness and scrutiny of health costs in private medical care. Employers and insurers are increasingly unwilling to accept paying prices higher than, or even as much as, Medicare.

And so concern about cost-shifting is less and less relevant: You can't shift costs if there is nowhere to shift them to. If Medicare limits payment increases for services to growth in national income and the rest of medical payers follow suit, hospitals cannot screw other players. Real cost control—whether in physician fees or in deciding which services are rendered, and for what price—becomes the only option, within and outside Medicare. That's why, for example, some academic medical centers in New York City hospitals have cut house care staff by 5 percent, and Connecticut hospitals have cut their staffs by 25 to 30 percent.

All of this doesn't mean there aren't real threats lurking in Medicare's revamping. The Republicans, in their preliminary proposals for reform, are ignoring the major flaw that marked the program's beginnings, namely the failure to structure the program's benefits for the distinctive needs of the elderly. This danger is most glaring in the glorification of HMOs, which have a track record of providing primary care to healthier, younger patients, but lack similar success in catering to the specific needs of the elderly. Some, in fact, have a history of shunning the chronically sick and the elderly.

The Republican mantra for Medicare is now "Give 'em what federal employees have." But a superficially sensible solution may not be so easily transferable. Federal employees choose from 345 HMOs and 14 fee-for-service plans. Health-service consumers who are old and chronically sick or disabled deserve a consumer-friendly form of health insurance. Offering this group the smorgasbord of choices currently available to federal employees may sound good to the Health Insurance Association of America and certain market theorists, but if you're old and sick, you shouldn't be expected to wade through hundreds of choices with immensely complicated variations to find the best deal. Structuring the system this way could also require politically unpalatable federal regulation to prevent HMOs from "cherry-picking"—skimming off the patients who will cost them less to serve.

Voucher-based care, then, to which the federal employee plan is akin, raises all sorts of questions. What sort of regulation will ensure that the elderly, particularly the sick elderly, get adequate care? Competition may restrain costs,

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but can it maintain quality? Will vouchers for Medicare segregate the elderly into a multi-tiered system of medical care? And will the beneficiaries be able to afford whatever additional costs are put on their shoulders? Until they satisfy these qualms, Republicans open themselves up to legitimate attacks from millions of Medicare beneficiaries already seething that they may be asked to pony up more in premiums and deductibles, only to get less in return.

Global Solutions

Clearly, there are more problems to be solved than the current debate suggests, but there are also more solutions. Other nations have universal coverage and wider benefits—and still spend less than we do per capita for their elderly. That suggests that it is possible both to control rising expenditures and widen coverage. What if some of the gaps left in the program 30 years ago, such as the lack of prescription drugs, were filled? In return, politicians could, at the very least, ask current beneficiaries to pay higher physician insurance premiums. If they knew they were getting something in return, Medicare's beneficiaries would be more willing to endorse cost control in the form of more reasonable choices being made about care.

No matter what, we can no longer afford health expenditures that increase at twice the rate at which our national income rises. The Republican solution—"voucherization" of Medicare—does nothing to guarantee cost control across the board. What's too often ignored is that the government itself can, and ought to, control costs in order to both reach deficit targets and expand coverage. Here's how:

• **Cap Medicare expenditures.** Limiting Medicare's budget will eliminate its perennial tendency to foil budget planners with unpredictable rates of growth, it will keep its expenditures in line with inflation, and it will force the tough decisions and hard bargaining necessary for cost control. HMOs are nothing more than capped programs with various strategies towards cost control, so in supporting HMOs, Republicans are at least on the right track to a global budget. But HMOs are not the only way to cap expenditures. Now, for example, we pay too much for procedures like magnetic resonance imaging (MRI), and do them too casually. Either pay less per MRI or don't pay in cases where it has been misused. With or without a widescale shift to HMOs, Medicare needs a global budget.

• **Pay providers less.** A global budget needn't mean reducing coverage but it absolutely demands reining in payments to providers. The key here is tough bargaining with doctors and hospitals. The larger the insurer, the more bargaining power it has. In the number of people it provides for, Medicare outranks the nation's largest private health care plan by more than two-and-a-half to one. That ought to give it phenomenal clout on the health care market. In California, some groups interested in cost control have reduced fees for surgical procedures by 25 to 35 percent. Medicare could do the same.

Medicare can make turnabout fair play and take advantage of market reductions in rates of pay using the "reasonable and customary" charge standard. Now that private medical costs are decreasing, Medicare should insist that doc-

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tors and hospitals charge it less, too. But Medicare should also cast a wider net: If open heart surgery costs 40 percent less in Toronto than it does in Chicago, Medicare ought to exert pressure to see its costs lowered here.

• **Do less of what makes less sense.** Doctors, too, need the power to help control Medicare's costs. They, not bureaucrats, should make decisions as to what of questionable value should be done less often. That means, for example, fewer heroic last efforts—an enormous amount of Hospital Insurance benefits are now spent in the last three months of life. The medical profession, led by the American Medical Association and other industry groups, needs to make a good faith commitment to bargain over rates, and a professional commitment to curb improper or wasteful use of medical care. Until now, care providers haven't had incentive to do that, but with limits on the amounts available for treatment, they'll learn.

• **Try administering Medicare directly.** The idea of administering Medicare through intermediaries like Blue Cross was another costly legacy of its birth, an effort to buffer hospitals and doctors from wily bureaucrats. In the headlong rush to managed care, administration as a target for cost control has been pushed off the table. Put it back on.

Medicare reform is possible now that medical payers are at work on cost control and Medicare's system of pre-set payments has demonstrated that it too can restrain hospital costs. More than that, reform is desirable. Done properly, it could have benefits far beyond deficit reduction—it could offer a frustrated public an example of incremental improvement by the government.

A successfully revamped Medicare could also offer a blueprint for what American national health insurance should look like: coverage for all those eligible, with wide but manageable choice, accountable administration, fair and sustainable financing, a minimum of reliance on supplementary insurance plans, and a firm reliance on serious bargaining over expenditure levels and price. With an affordable model of national health insurance in public view, the drive for universal health insurance could begin again. □

The Washington Monthly

JOURNALISM AWARD

MAY 1995

Steve Stecklow
The Wall Street Journal

The Foundation for New Era Philanthropy promised nonprofit investors it would double their money in six months via "anonymous" philanthropists. Instead, New Era turned out to be a high-stakes Ponzi scheme. The foundation filed for bankruptcy the day after the *Journal*'s first story ran, and philanthropists, churches, schools, and charities are still counting their losses.

JUNE 1995

Gary Cohn and Ginger Thompson
The Baltimore Sun

A devastating series describes how a CIA-trained Honduran army intelligence unit kidnapped, tortured, and murdered "suspected subversives" during the eighties—with U.S. knowledge and complicity.

Gilbert Gaul and Susan Stranahan
The Philadelphia Inquirer

The *Inquirer* found that U.S. Research and Development grants, designed to create jobs and make industry more competitive in the global market, more often go to feed already-fat corporate coffers. The results of $6 billion in taxpayer-funded projects include fancier fireworks at Disney World, and a better way to peel chili peppers.

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Taking a Hard Right

Why all of us—including the President—should be paying more attention to the conservative capture of the lower courts

BY AMY WALDMAN

They were no longer called "black" and "white," but well into the seventies Mississippi's universities were still separate and unequal. With creative admissions standards and disingenuous funding criteria, the state had perpetuated a system of higher education that segregated in practice if not in name. Historically black universities remained black and meagerly resourced, while their white counterparts grew fat with libraries and land grants. When a group of black Mississippians finally brought suit claiming as much, their case seemed irrefutable.

Irrefutable, but also irrelevant—at least according to the Fifth U.S. Circuit Court of Appeals, which heard the case in 1990. The court conceded some segregation and inequity in the system, but ruled that because Mississippi no longer officially discriminated, the state couldn't be forced to change course. So egregious was the unequal treatment, however, that the Rehnquist Supreme Court—hardly a bastion of liberalism—overruled the Fifth Circuit in an eight-to-one decision calling the state's higher education system "constitutionally suspect."

The lower court's decision was reversed, but its poignancy was undiminished, for the Fifth Circuit had once been at the vanguard of racial justice. It played a pivotal role in expanding civil rights in its jurisdiction, the heart of the Old South, by enforcing desegregation in the wake of *Brown v. Board of Education.* In the face of uncloaked public hostility, the court's judges exhibited extraordinary courage and became the stuff of judicial legend—powerful symbols of federal courts' ability to ensure that right prevailed for those without political might on their side.

The Fifth's move from the principled left to the extreme right, from deliberately expansive to determinedly narrow readings of the Constitution, has been dramatic—but hardly unique. Similar, if subtler, shifts have taken place across most of America's lower courts, where the seeds of the conservative judicial revolution have come to fruition. "It's been remarkable," says Richard Epstein, one of the country's leading conservative legal academics, of the lower courts. "There has been a fundamental change in the law."

Yet while the rightward shift of the Supreme Court has provoked endless liberal handwringing,

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the greater transformation below has garnered little attention. "The lower courts just carry out the decisions of the Supreme Court," explains Senator Paul Simon, a longtime member of the Judiciary Committee. "I voted against Clarence Thomas to be the head of the [Equal Employment Opportunity Commission]. When I heard he might be considered for the Supreme Court, I said I would vote against him for that. But I voted for him for the Court of Appeals."

Such ignorance of the importance of federal appellate courts is astounding. For most Americans, the 12 appeals courts are, literally, the courts of last resort—only 94 of the thousands of cases decided there were heard by the Supreme Court during the last term. Appeals court judges set precedents and case law for their regions—which means most of the laws affecting us. Creative or persuasive argumentation by appellate court judges is often adopted by the Supreme Court as well. Whether sanctioning discrimination or curbing environmental regulations, decisions by both appeals and district court judges have real, ongoing consequences.

That the lower courts are crucial is something that, like Simon, President Clinton often seems to underappreciate. The "activist president" has been been erratic in filling seats and cautious in his choices—particularly in comparison to the Republicans who preceded him. And now that Republicans control the Senate and Orrin Hatch the Judiciary Committee, President Clinton has even less opportunity to leave his mark on the courts.

The Real Revolution

Clinton could take a lesson in priorities from Ronald Reagan. When Reagan came into office, Democrats outnumbered Republicans on the federal bench by a three-to-two ratio. As California's governor, Reagan had battled the liberal Ninth Circuit, and he well understood the importance of the lower courts. His administration made changing them a top priority.

The Reaganites put the judge-picking process into overdrive. In the past, presidents had selected judges by getting one nominee from a home-state senator, and then running a routine background check. The Reagan team demanded choices from senators until they found nominees they liked and supplemented the search by combing the country's law schools for conservative ideologues. Administration officials sought to gauge the ideological purity of potential nominees, poring over their writings and quizzing them on their judicial philosophy. All told, Reagan filled 375 seats in eight years.

There was more to the Reagan strategy than sheer numbers, though. Reagan and Attorney General Edwin Meese sought young judges who would be on the courts for decades to come. More importantly, they sought jurists—primarily academics—who would not just deliver votes, but could also influence their colleagues. "We systematically reviewed judges for their philosophy," says Bruce Fein, a Meese deputy in the Justice Department. "Not just whether they would vote right, but whether they would persuade other judges."

It's a testament to that strategy's success that a handful of conservative firebrands on the lower courts—Richard Posner and Frank Easterbrook on the Seventh U.S. Circuit Court of Appeals; Alex Kozinski on the Ninth; Ralph Winter on the Second; J. Harvie Wilkinson III on the Fourth; Laurence Silberman and Stephen Williams on the D.C. Circuit—have an influence that far exceeds their numbers. Their opinions are cited regularly by other circuits and by the Supreme Court. Sending clerks to the Court is another way judges influence justices—since the clerks do the research and help write the Court's opinions, they can cite the brilliant decisions (that they also helped write) of the lower court judges they once worked for. In just the last three years, these seven appellate judges sent the Supreme Court 26 of its 108 clerks. These judicial powerhouses also write, teach, and are often quoted by the press. "If you have five to eight people like this, that's enough," Fein says. "Five people ran the Bolshevik revolution for the first few years."

After Reagan, Bush continued to appoint conservatives, and between them they put 120 appeals and 442 district judges on the courts—more than 60 percent of the federal judiciary. Certainly, the Reagan-Bush appointees are not a monolith, but over the years they have

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guided the courts in several identifiable directions: showing a deference to government authority to infringe on civil liberties, and a devotion to protecting the rights, liberties, and pocketbooks of business and property owners—often at the expense of individuals or the environment.

Take the January decision by the 11th U.S. Circuit Court of Appeals upholding the U.S. government's right to deny Cuban refugees at Guantanamo Bay military base access to lawyers. You might not find that unreasonable. But then the court went further, ruling that aliens in U.S. custody have no constitutionally guaranteed rights at all—which means U.S. officials could legally beat, starve, or indefinitely detain aliens. Similarly severe curtailments of rights—such as denying death row defendants who were represented by incompetents the right to appeal—have become commonplace in the decisions of Reagan-Bush appointees.

Thanks to the Reagan revolution in the federal judiciary, there's a good chance that the tobacco companies will get off the hook—again.

In 1992, the District of Columbia federal appellate court rejected a public interest group's claim that, under the Freedom of Information Act, the Nuclear Regulatory Commission (NRC) should make public records of previous and potential hazards at the country's nuclear power plants. That means that if you live down the road from say, Three Mile Island, you can't find out if they're leaking radiation downwind or if there's a Homer Simpson at the controls who might cause a meltdown. Nor can you find out whether the NRC is doing anything to clean up or prevent such disasters.

A 17-year-old precedent had said that such information could be kept confidential only if releasing it would either hurt the industry competitively or affect the government's ability to obtain such information in the future. Neither was true in this case. But out of deference to the government, and concern for the industry, Judge James Buckley conveniently tiptoed around the precedent in writing for the majority. Conservatives cite the return of judicial restraint—fidelity to precedent or original intent—as their main success in taking back the courts. But often, as Buckley demonstrated, conservatives restrain themselves only when it suits their position.

Because it hears many challenges to agency regulations and government officials, Buckley's D.C. Circuit is considered second only to the Supreme Court in power. Reagan and Bush prioritized it accordingly, appointing to the court such ideologues as Antonin Scalia, Robert Bork, and Clarence Thomas. In the seventies, the D.C. Circuit had vigorously enforced a stream of new environmental laws like the Clean Air Act. But since the eighties, the court has been far more inclined to provide relief to businesses that are fighting such regulations.

Consider the case of *Sweet Home Chapter of Communities for a Greater Oregon v. Bruce Babbitt, Secretary of the Interior*. A group of plaintiffs from forest products industries sued Babbitt over the Endangered Species Act, arguing that the act, which says humans may not "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect an endangered species," did not preclude destruction of an endangered species' habitat. Judge Stephen Williams agreed, arguing that destroying a habitat was not "harm," but rather "the withholding of the benefits of a habitat that is beneficial to a species." That to withhold the benefits of a habitat from a species generally harms that species—and indeed could eliminate it—didn't concern Williams as much as the possibility of the government interfering with the exploitation of private property.

Again, the decision was too radical even for the Supreme Court, which reversed it. But on the lower courts, it was business as usual. Other decisions have limited access to the courts for plaintiffs seeking redress from business. Several opinions on the Seventh Circuit, for example, have made it harder for investors who have lost money to bring securities fraud lawsuits. In one case Judge Easterbrook threw out a fraud suit against accountants on the grounds that accountants' reputations are based on honesty, and therefore it would be irrational for them to join in fraud. Greed, unfortunately, is not always so rational.

A recent Seventh Circuit ruling by Judge Posner in a class-action suit shows the creativity Reagan and Bush appointees often muster to

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protect corporate bottom lines. In March, Posner ruled that 10,000 hemophiliacs suing four drug companies for improperly screening blood products for the HIV virus could not sue as a class. His reason? Extrapolating from the maximum possible award a jury might give—he settled on $25 billion—he speculated that a class action lawsuit could do "irreparable harm" to the pharmaceutical companies by bankrupting them. Even the drug companies hadn't raised that argument in challenging the suit. *American Lawyer* called the decision a "triumph of conservative judicial activism."

Posner's decision quickly reverberated beyond the Seventh Circuit. Tobacco stocks soared the day after his decision—because America's seven largest tobacco companies are facing a class action lawsuit of their own, the largest in the nation's history. A district court judge in New Orleans had certified earlier this year that up to 90 million current and former smokers could sue cigarette manufacturers in *Castano v. American Tobacco*, and for once the plaintiffs were armed with the legal talent and resources to prove that cigarette manufacturers have for years known about and manipulated the addictiveness of cigarettes. The cigarette manufacturers finally were facing the grim prospect of being held accountable for more than 400,000 annual smoking-related deaths.

But four months after Posner's decision, the Fifth Circuit agreed to hear the tobacco companies' argument that smokers shouldn't be able to sue as a class, either. Since the Fifth Circuit also has taken a skeptical stance on claims against business, it's likely they'll reject the suit. And Posner's precedent will be added ammunition for the tobacco companies, particularly since he is considered the most influential lower court judge in the country today. "This [decision] ... does us good on several levels," said Dan Donohue, an R.J. Reynolds Tobacco lawyer, "and we intend to cite it." *Castano*, then, is most likely dead in the water. Thanks to the Reagan revolution, tobacco companies may be off the hook—again.

Wanted: Liberal Firebrands

With conservatives leaving such a deep imprint on the law, the election of President Clinton offered hope that the pendulum might swing back. For only the second time in 24 years, a Democrat would make judicial appointments, and Bush had left Clinton more than 100 openings to fill. Besides, President Carter had taken an active interest in the courts, filling 262 seats. Now, with Clinton in the driver's seat, the hope was that liberal Posners and Easterbrooks would be appointed to challenge conservatives on the dominant issues of the day.

Whereas Reagan's criteria were ideology, intellect, and persuasiveness, however, Clinton's criteria are competence and diversity. To be sure, it is commendable that more than 60 percent of his appointees are women and minorities, more than any president in history, and that he has picked the highest proportion of judges rated "well-qualified" by the American Bar Association since they began evaluating judges in 1948. And the Clinton appointees also have far more real world experience—a record number were in public service—than the Reagan superstars did, which gives them an awareness of the human consequences of law where academics may see only theory.

But with a few exceptions—such as his former Yale professor Guido Calabresi—Clinton's appointees have been able lawyers, not top legal minds. They are mainly centrists, and seem unlikely to offer a well-articulated, cohesive liberal legal vision to counter groundbreaking conservative rulings. And then there's Clinton's sluggish pace. He filled only 28 seats his first year, picked up speed to fill 101 the next, but is back down to only 26 so far this year. Despite their claims to the contrary, judge-picking is not a White House priority: How else to explain the lack of nominees for 38 of the 63 seats currently empty?

No matter what, of course, the Clinton appointees will be a minority. More of his appointments, in fact, have replaced Kennedy, Johnson, and Carter judges than Reagan and Bush appointees. But a minority can still exert influence—by writing compelling dissents, by making the arguments for the other end of the spectrum, and sometimes by persuading more conservative colleagues to join them. "You need the debate to continue, or it becomes one-sided," says Stephen Reinhardt, a liberal judge on the Ninth U.S. Circuit Court of Appeals.

As Clinton dallies, he misses more chances to neutralize the Reagan legacy. On Reinhardt's Ninth Circuit, for example, there are 28 seats: 15 are Republicans, nine are Democrats, and four are empty. That means Clinton could bring the ratio almost parallel, if he acted—yet one of the

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seats has been empty since George Bush was president. Similarly, Abner Mikva's seat on the critically important D.C. Circuit, which he vacated last year to become White House counsel, is still unfilled.

And Clinton's moment of opportunity is passing. With Republicans controlling the Senate, and Orrin Hatch in the catbird seat, Clinton will have a tough time winning confirmation for prominent liberals—or many judges at all. Hatch is keeping the Reagan flame on the judiciary alight, vowing in a recent interview that he would not "allow radicals to be on the courts." In response, Clinton has chosen to avoid fights and defer to the conservatives. If Orrin Hatch objects, as he did to Peter Edelman's nomination to the D.C. Circuit Court of Appeals, liberal nominees are dropped. When Hatch signaled that one district court nominee was unconfirmable because of his record of representing plaintiffs in police brutality cases, the nomination was withdrawn.

But because Hatch wants to maintain the dignity of his chairmanship, he'll allow some centrist nominees through, at a tightly controlled pace, until he shuts the process down in advance of next year's presidential election. For now, that means one hearing per month, with four or five district nominees and only one circuit judge. At that rate, Clinton will be lucky to get 25 more nominees through this year, and probably even fewer next year. The larger the backlog at the Judiciary Committee, however, the more pressure on Hatch to pick up the pace: Clinton ought to be making as many nominations as possible, as quickly as possible.

But a few more centrist Clinton nominees won't eliminate the imbalance on the court. That requires more strongminded, brilliant, liberal jurists. Orrin Hatch isn't going to let them on the courts—his job is to keep them off. And so a judiciary that is supposed to be above politics must be won in the political arena—by electing Democrats to both the White House and Senate. If nothing else, this should move you to the polls next year: To make sure that well into the next century voices on the courts argue eloquently that discrimination is not legally sanctionable, that government's authority is not absolute, and that business often needs vigilant restraint, you need to elect politicians who believe the same. And then they need to act. □

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The Three Faces of Newt

Newt's book is alternately frightening, sensible, and just plain loony—much like the man himself

BY MATTHEW MILLER

To Renew America
Newt Gingrich, *HarperCollins, $24*

Test your understanding of the Republican revolution. Newt Gingrich is: (a) an original thinker-politician, whose fear for America's sagging trajectory prompts him to offer fresh solutions that go beyond politics as usual; (b) a manipulative propagandist, whose benign facade masks a ruthless hunger for power that he'll use for God-knows-what if we don't stop him; or (c) a jargon-loving management consultant in disguise, whose bromides and futurist visions get loonier with each new one he spews.

If you said "all of the above," maybe you've already read *To Renew America*, in which the traits that make Gingrich both fascinating and scary are on neon display. *Renew* is a breezy screed that purports to explain the source of Gingrich's ambitions, his diagnosis of what ails us, and his inventory of cures. There's plenty to question or dismiss here. Yet for liberals, the only thing that should be as troubling as Newt's agenda is their own illiberal refusal to admit there might be a sincere or worthy thought in his head.

After an opening reflection on his formative years (where we're told, among other things, that at age 14 the future speaker consecrated his life to "understanding what it takes for a free people to survive and to helping my country and the cause of freedom"), the book speaks in successive chapters to "the six challenges" Gingrich sees facing the country. These are, in his words, "Reasserting and Renewing American Civilization"; "America and the Third Wave Revolution"; "Creating American Jobs in the World Market"; "Replacing the Welfare State with an Opportunity Society"; "Balancing the Budget and Saving Social Security and Medicare"; and "Decentralizing Power." There's little new here if you've heard his spiel before.

Gingrich also offers a mini-memoir of the Contract With America, from inception to execution in the new Congress's first 100 days. The last 100 pages of the book consist of 17 bite-sized chapters in which Gingrich offers short takes on subjects ranging from Rush Limbaugh to the flat tax.

As with most Gingrich utterances, the book is bursting with ideas—some sensible, some inflammatory, others daffy. Among the sensible: Gingrich wants prisoners to work and study in prison, not lift weights and channel surf. He'd expand the Earning by Learning program he helped pilot in Georgia, which gives poor kids a dollar for each book they read and has created scores of ghetto bibliophiles. He also points persuasively to the religious spirit at the heart of American tradition, quoting Ben Franklin's quiet appeal for divine aid when the Founders nearly faltered.

Then Gingrich's brain burps. He predicts that honeymoons in space will be the rage by 2020 and that bold new merchandising can renew America's status as a premiere shopping destina-

Matthew Miller, a former Clinton budget official, writes on politics and economics.

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tion. If people like our clothing stores and boutiques, he says, then they'll love our heart, liver, lung, and kidney transplants. And so on.

Meanwhile, sophistries and disingenuous analyses abound. A cheerleading Gingrich claims high-tech medicine will be our savior, bringing better care at lower costs without anyone having to give up anything. Sounds nice, except technology (combined with our aging population) is largely to blame for rising health costs, meaning that we'll soon face anguished choices between limiting some care or going broke.

No nasty tradeoffs like that for Newt. He says only market reforms and choice can improve our schools, failing to explain why such nations as Japan and Germany admirably educate their young with evil state monopolies. He peddles the old canard that liberals alone are big spenders, when GOP heretics from David Stockman to David Frum have shown their party's own complicity at the federal trough. And in a triumph of hypocrisy, to bolster his case for welfare reform, Gingrich offers a nostalgic discourse on how social reformers once knew that giving people help they don't deserve is destructive to the human spirit. If that's heartfelt, why does Gingrich ignore the billions in mortgage interest deductions and windfall health and pension entitlements now corrupting the souls of the undeserving rich?

Scratch the Speaker's solutions, and often there's nothing there. Gingrich's cry for "a series of commissions" on technology or to "rethink our entire approach" to economic growth exemplify the many empty calls to action that sprinkle his book. When he gets specific, the results can be shocking. Wrapping up his discussion of the budget, for example, Gingrich casually adds that a reasonable federal government would probably spend $1 trillion, about $850 billion less than Republicans today say we'll need *after* they've made all their cuts between now and 2002. Reporters (and the Clinton White House) may want to follow up on the Speaker's plan to cut another 45 percent off of federal spending at that point.

The book suffers from two maddening stylistic tics. Dickens was paid by the word; Rupert Murdoch must be paying Newt by the superfluous superlative. "Extraordinary," "remarkable," "amazing," "stunning," "astounding," and "unprecedented" describe everything that catches Gingrich's eye, from scientific discoveries to congressional elections. It doesn't stop there: They're usually the most remarkable (astounding, stunning) on "the planet," "the globe," "on earth," or "in history." I started circling these words and quit by page 10, averaging a remark-

Newt Romances the Reich

When I agreed to review *1945**, my friend Edmund Morris, the eminent biographer, instructed, "Be fair, it could be imperishable literature." I tried, honest I did, struggling through 382 pages of tortured prose. But I have concluded that the book is a convoluted, cliché-riddled literary debacle. The best I can say is, mercifully, the print is very large. The worst, the promise of a sequel. The book ends with three ominous words: TO BE CONTINUED.

Co-authors Newt Gingrich and William R. Forstchen, both historians, have popped every vein and twisted every sinew in an effort to produce high-octane sci-fi. What they have come up with instead is a muddled, military mishmash: part *Rambo*, part Tom Clancy, with *Pulp Fiction*-esque gore tossed in. Their fantasized, sanitized view of Nazi Germany might well be retitled *Romancing the Reich.*

Though they can wax lyrical over the nitty-gritty of macho, martial hardware, (these finite descriptions take up approximately half the book), the posturing of their major characters—a fatuous hero named James Mannheim Martel and the flamboyant villain, Otto Skorzeny—are ludicrous. The plot, if it can be called that, is based on the premise that the United States won the Great Pacific War against Japan, but never entered the European war, opening the door for a Nazi conquest of the Soviet Union. Now, Nazi Germany is ready to take on the United States. Hitler plans to invade Great Britain, but his main target is the Manhat-

**Newt Gingrich and William R. Forstchen, Baen Books, $24*

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able three per page, more than any book I'd read on the planet. Also, Gingrich's annoying habit of speaking in jargon-heavy lists (e.g., "five basic principles" of civilization, "eight steps" for improving life for the poor, "three essential reasons" for balancing the budget) fails to create the air of authority it's designed to.

But for all Gingrich's faults, *Renew* is a Rorschach test that reveals as much about some liberals as about what's wrong with the new Republican ascendancy. Let me state clearly: I oppose most of Gingrich's policies and think he's dangerous precisely because he's so effective. Such reviewers as Joan Didion and Michael Kinsley are right to catalogue Newt's many errors, hypocrisies, and deceits. But to read their reviews, you'd think Gingrich is such a fraud that, apart from a nod to his political skills, there's not one positive thing to say about him.

This isn't fair. Even those whose views we despise or who seem utterly cynical and power-mad often have some motivations or ideas that are worthy. Treating them superficially as a political tactic doesn't help defeat them and usually misses the truth. On the budget, for example, while I deplore the GOP plan that cuts the most vulnerable to give to those already well off, I have to acknowledge that Gingrich & Company have done more to raise public and media awareness of the fiscal crisis ahead when the baby boom retires than, say, the President.

There are other positive points. Gingrich has a healthy outrage over self-interested bureaucracies that stifle reform, whether it's faculties fighting ways to make college cheaper, doctors and lawyers protecting their guilds, or CPAs who like the complex tax code just the way it is. Gingrich also describes what appears to be a highly effective division of duties he's worked out with Majority Leader Dick Armey, in which the Speaker acts as chairman and CEO—the vision man—while Armey acts as chief operating officer. If the Republican steamroller keeps rolling, Gingrich's innovation may become a model for future House management.

Acting as if your opponents have no virtues can also be hypocritical. Didion, for example, dismisses Gingrich's interest in history as little more than a veneer and useful only in showing how Gingrich will appropriate anything that's of practical use to accumulate power. Maybe. But if Mario Cuomo had written a book describing the things he'd read that influenced him, citing historian Gordon Wood and quality guru Edwards Deming among the eclectic sources he'd learned from, my guess is that Democrats would be in ecstasies of admiration. At last, we'd say, a leader who can think! Come to think of it, wasn't this part of what made Bill Clinton so attractive? ❐

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tan Project. He aims to annihilate all the scientists working on the bomb and destroy the American nuclear facilities at Los Alamos and Oak Ridge, Tennessee.

The Fuhrer appears a couple of times and mutters such memorable lines as, "This meeting is concluded. You know your duties, get to them."

Other major historical figures get similar treatment, among them General George Marshall, Douglas MacArthur, Winston Churchill, OSS Chief "Wild" Bill Donovan, and George Patton. Even World War I warrior Sergeant Alvin York is plucked from the recesses of history and plunked down, complete with flashlight and rifle, in the midst of the blitzkrieg of Oak Ridge. Fortunately, all are dead. Otherwise they'd sue.

As for women, forget it. Only two play any kind of role. One is a Pollyanna, a true blue, patriotic gal. The other is Newt's now-famous "pouting sex kitten," Erica, an exotic German spy, who ensnares the President's chief of staff by nuzzling his neck and biting his shoulder as "her fingers entwined the fur of his chest." She also comes up with some supposedly titillating dialogue: "To think that when we started I was little more than a throwaway container for your lust." Or, "Such games we have. You play wonderfully. Now tell."

Mata Hari, not.

Puzzled as to what possessed the Speaker of the House to pen such a novel, I called his publisher, Jim Baen, who told me Gingrich was paid $15,000 for his part of the project. "You didn't like it?" Baen asked. "Oh well," he sighed, "this is not intended to be a literary effort. It's a beach book. Not quality."

But *1945* is a little more than just that. It's The World According to Newt: alternative reality, filled with sturm and drang and high technology—a guy thing. If Gingrich is seeking a nomination, it won't be coming from the publishing world.

—*Sandra McElwaine*

Sandra McElwaine is a journalist based in Washington, D.C.

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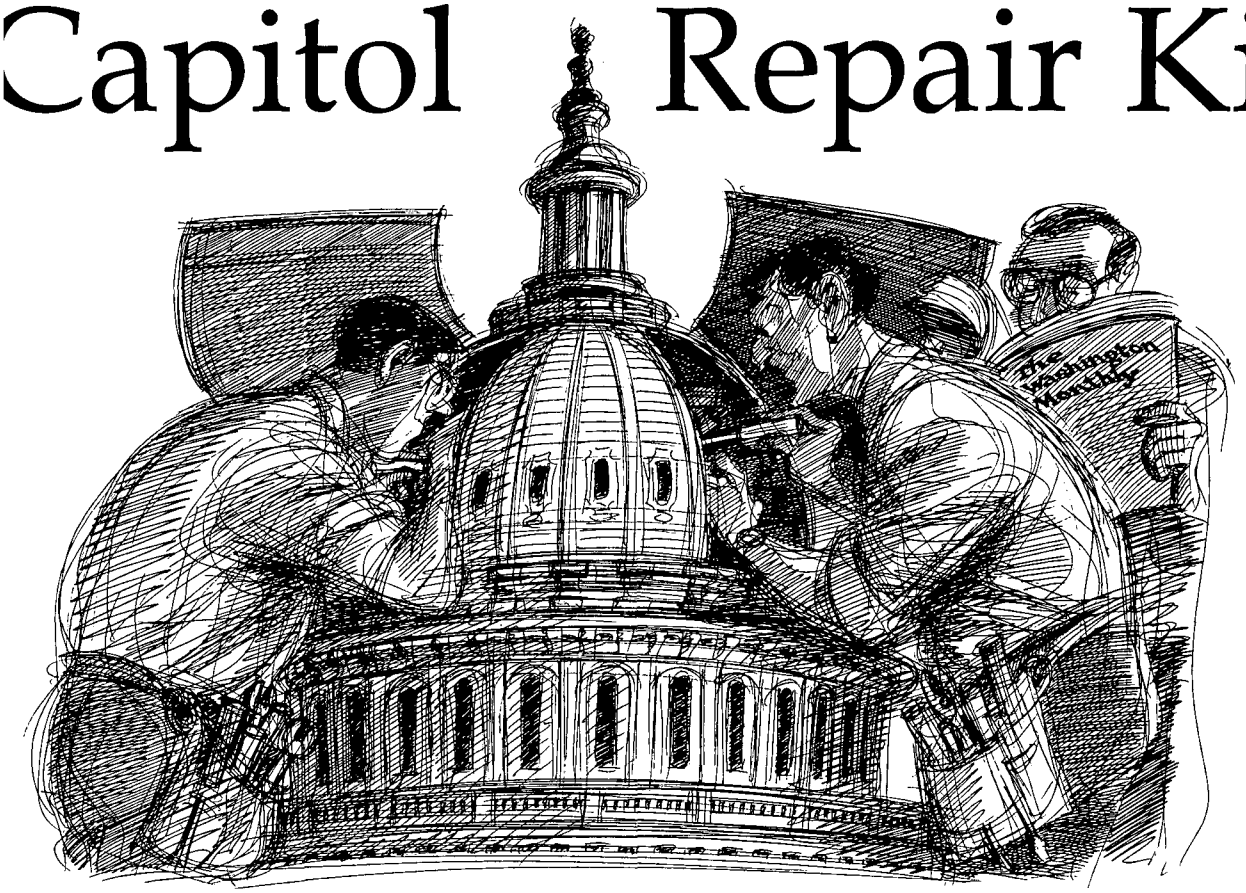

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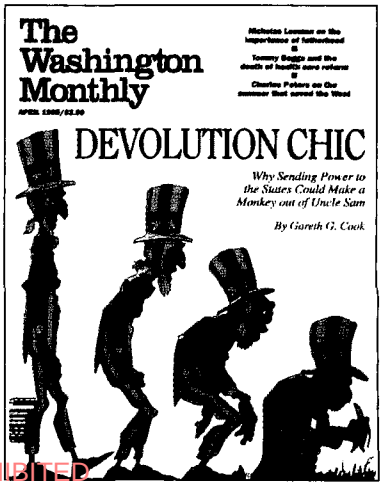

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The Best of Enemies

The absorbing memoirs of Anatoly Dobrynin, a statesman who cared more about settling disputes than scoring points in the Cold War.

BY CHARLES WILLIAM MAYNES

In Confidence
Anatoly Dobrynin, *Random House, $29.50*

I have to confess that for a considerable period in my professional career I deeply resented the author of this book. In the late sixties I served as a young diplomat in the American Embassy in Moscow, and I saw Anatoly Dobrynin mesmerize an unending series of senior U.S. officials into accepting him as their sole interpreter of the latest twists in U.S.-Soviet relations.

His ability to dominate the diplomatic dialogue left the rest of us, no matter what our level, with mere academic tasks. We spent our days reading *Pravda* and sending in summaries of articles that our colleagues in Washington could have read at their leisure. We did little real diplomatic work. Feeding our paranoia was the fact that Dobrynin was something of a stealth diplomat. He met with our senior leaders alone, without notetakers or interpreters on either side. We were seldom told what was going on.

This autobiography convinces me that our resentment was wrong-headed. Anatoly Dobrynin, the Soviet ambassador to the United States from 1962 to 1986, establishes in these pages that he is one of the great diplomats of modern history, a credit to his country and to a common tradition that spans many centuries.

What does it mean to say that someone is a great diplomat? In this media-obsessed age, many now seem to regard a great diplomat as someone who is an outstanding press agent or a vigorous negotiator who can gain advantage for his government by extracting one-sided concessions from others. His purpose is to prevail.

Yet the more traditional definition describes a person who helps his government accommodate its policy to the policies of others. The purpose is not to prevail but to agree, provided the interests of both sides are served. Nations do not win, they get along. For agreements to endure, they must be balanced. Diplomats are there to help their governments understand how to accomplish that task.

This is Dobrynin. "[I]f I had any great purpose in life," he writes, "it was the integration of my country into the family of nations as a respected and equal partner." For this purpose, he urged a "correct and constructive dialogue between leaders of both countries and maintaining the positive aspects of our relations whenever possible."

But a "correct and constructive" dialogue between the United States and the Soviet Union was always an elusive target, and often the victim of electoral demagogy on one side and rigid ideology on the other. One troubling aspect of this memoir is the repeated evidence of the incompatibility between democratic practice and sound diplomacy whenever the two parties regard one another hostilely. Thus, the Cuban missile crisis, normally depicted as an unalloyed American victory, really ended in a compromise. In return for the withdrawal of Soviet

Charles William Maynes is editor of Foreign Policy.

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missiles from Cuba, the United States agreed to withdraw its missiles from Turkey. But for domestic political reasons, the Kennedy Administration would not agree to reveal the real nature of the compromise it made. As Robert Kennedy told Dobrynin at the time, he himself might "some day" run for president, and his own prospects "could be damaged if this secret deal about the missiles in Turkey were to come out."

The result was a political triumph for the Kennedys, but America paid an enormous price for the public victory. Dobrynin reports that the Soviet military establishment "used this experience to secure for itself a new large-scale program of nuclear arms development" that pushed the arms race with the United States to new heights. The repercussions, he reminds us, were felt for "nearly 30 years."

Indeed, Dobrynin tells frustrating tales of missed opportunities throughout the Cold War. The Americans missed an opportunity during the Kennedy Administration to gain Soviet support for a comprehensive test ban treaty, which would have stopped any new countries from developing nuclear weapons and forestalled the creation of the multiple warhead missile (MIRV), a development which fueled and destabilized the arms race. The Soviets missed an opportunity in the Johnson Administration to agree to an anti-ballistic missile regime. The Americans missed an opportunity to restrict the deployment of MIRVs in the Nixon Administration. Jimmy Carter missed an opportunity to deepen détente early in his administration by refusing to ratify the arms limits agreed to at Vladivostok. Both sides repeatedly missed opportunities to solidify their relationship because of disagreements about peripheral issues involving third world developments.

Given Dobrynin's hopes of constructive dialogue, it is interesting that his two American heroes are Nixon and Reagan, men whom the Kremlin loathed when they took office. But behind the backs of his own cabinet, Congress, and people, Nixon began a diplomatic process aimed at according the Soviet Union a coequal status with the United States internationally. And he made astonishing progress because no one except Henry Kissinger knew what he was doing.

Reagan, of course, greatly damaged the relationship by his mindless arms build-up and the angry rhetoric of his first term. But as the President actually came in contact with Russian leaders and realized that they too were human, he pushed beyond his own administration in obtaining a far-reaching accommodation with his Soviet counterparts. "Reagan's achievements in dealing with the Soviet Union," Dobrynin concludes, "could certainly compare favorably with, and perhaps even surpass, those of Richard Nixon and Henry Kissinger."

Still, dedicated cold warriors will be dismayed by the evidence in this memoir that—contrary to their fears—Soviet leaders never embarked on a march to world conquest. Dobrynin produces as evidence secret reports to the Politburo that make it quite clear that "international tension does not suit the state interests of the Soviet Union and its friends." Moscow's problem, as well as our own, was that each side was often manipulated by its clients into positions that jeopardized the core Moscow-Washington relationship.

Sprinkled throughout this book are a number of sensational revelations. We learn that the Politburo so hated Richard Nixon in 1968 that it offered money to the Democratic candidate, Hubert H. Humphrey. (He turned the offer down.) We are informed that there is a secret protocol in the agreement between the United States and Pakistan that commits the U.S. government to support Pakistan against Indian "aggression." We are told that the Soviets so feared a nuclear attack in the first Reagan term that they authorized "the largest peacetime military intelligence operation in Soviet history." And contrary to American suspicions, there was never a "threat of a direct military clash" between the United States and the Soviet Union during the 1973 Middle East crisis. "We took no measures to put our armed forces on high combat alert ... and we certainly did not alert our strategic nuclear forces as the Americans did."

In short, this book is an impressive and important document of the Cold War. And, my professional resentments aside, I can only conclude after reading it that the United States was very fortunate that its superpower rival chose this gifted man—this great diplomat—to represent it in our "difficult but wonderful country." □

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Polluted Justice

How a case against corporate polluters shows that even clear victims of injustice have a hard time in America's legal system

BY TIMOTHY NOAH

A Civil Action
Jonathan Harr, *Random House, $25*

Between 1964 and 1979, residents in Woburn, Massachusetts, an industrial suburb north of Boston, complained that their tap water had developed a nasty taste, a strong, bleach-like odor, and a peculiar rust color. During the same period, 20 Woburn residents developed leukemia. Most of the victims were children. In one neighborhood, East Woburn, the incidence of leukemia was *seven times* the normal rate. "If I stand on my front porch," observed the mother of one boy who later died of leukemia, "I can see all these houses where children with leukemia live."

The families of the sick suspected that what doctors viewed as a puzzling statistical "cluster" was really a leukemia epidemic caused by the city's foul drinking water. Eventually, officials discovered that two of the city's public wells were contaminated with trichloroethylene and other industrial chemicals, the apparent sources of which were a nearby tannery and a nearby manufacturing plant. The two wells were shut down, and the leukemia rate dropped back down to normal.

To a public that's been fed a steady diet of environmental horror stories during the past 20 years, this narrative may sound commonplace, but it isn't. Because of considerable uncertainties in environmental epidemiology, the number of instances in which the dumping of toxic wastes can be linked, even informally, to horrible sickness and death are few. (Indeed, the most famous toxic waste dump of all, Love Canal in western New York, has yet to yield clear evidence of elevated cancer levels 16 years after its discovery.) It's even rarer that a link between exposure to specific toxic wastes and cancer is affirmed—however tentatively—by an august body like the National Academy of Sciences. But the NAS, in a 1991 report, found such a link in its review of the Woburn leukemia cases.

The families of Woburn were the victims of an injustice whose consequences were unmistakably tragic. But if one accepts their unhappy plight as a given, the families were, by the logic of modern tort law, quite lucky. They knew (as much as anyone can) that industrial pollutants had killed their children, and they knew (as much as anyone can) which factories those industrial pollutants had come from. Rather than drown in helplessness, they could turn their grief to righteous anger against a clear societal wrong and, specifically, against Beatrice Foods and W.R. Grace, the deep-pocket corporations that owned the tannery and the manufacturing plant, respectively. The Woburn families had, in other words, a dream lawsuit.

A Civil Action is the story of that lawsuit, and, more generally, of how the moral rightness of a cause can be rendered irrelevant by a trip through America's legal system. The author, Jonathan Harr, was a writer for the late, lamented *New England Monthly*, a magazine that spawned more than its share of gifted young nonfiction writers. Harr's book, though lengthy, is an amazingly

Timothy Noah is a reporter for The Wall Street Journal *and a former editor of* The Washington Monthly.

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swift read that will probably reach a large audience. ("Soon to be a major motion picture from Disney Studios, directed by Robert Redford," boasts Random House's promotional blurb. After reading the book, I'm not surprised.) The book has the texture and narrative drive of a true-crime saga, even though it's really about the (theoretically) stodgier world of litigation. As viewers of Court TV and CNN flock to infotainment spectaculars like the O.J. Simpson murder trial, Harr's book offers troubling evidence that the most luridly dramatic stories our courts have to tell may be found not in criminal trials, but in civil ones. Maybe it will spawn a new genre: the true-lawsuit book.

But Harr's book is more than just a page-turner. It's a subtle and edifying tale about how even the "best" lawsuits—those where the plaintiffs are battling a clear injustice—can create misery. And not just for the defendants, but for the plaintiffs and even—now here's the real surprise—for the plaintiffs' attorney.

At the center of the book is Jan Schlichtmann, an ambulance-chasing attorney whose obsession with the Woburn case seems to mix equal parts of greed and idealism. Schlichtmann takes on the case as a hot Boston lawyer on his way up; by the book's end, nearly a decade later, the case has bankrupted Schlichtmann (even though he's won a huge settlement from W.R. Grace), and he is contemplating suicide.

Great narrative journalism depends to some degree on luck, and in choosing Schlichtmann as his central character Harr was very lucky indeed. Although Schlichtmann, who is theatrical and ambition-crazed, must initially have seemed larger than life, Harr couldn't have known that the arc of his life would be shaped quite so profoundly by the Woburn case. By telling the story largely through Schlichtmann's eyes, Harr accomplishes several things simultaneously.

First, he makes clear that once the Woburn case entered the legal arena, it wasn't the Woburn families' story, but Schlichtmann's. The families of Woburn, whose sad narrative is told with great force in the book's first 50 pages, disappear almost entirely from the story once the lawsuit begins. That seems faithful to reality; as far as I can tell, the Woburn plaintiffs quickly became irrelevant to the judicial combat related in the book. Indeed, because the phase of the trial where the families were to testify never occurred, they don't figure even as witnesses.

Reading the story mainly from Schlichtmann's point of view also enables the reader to experience something akin to Schlichtmann's obsession with the Woburn case. Environmental lawsuits are about dull things like geology and epidemiology and chemistry, and involve endless technical drudgery. But because Harr, like the best mystery novelists, makes his protagonist's obsession with rooting out the truth infectious, the reader is swept along through what is, after all, a lot of geology and epidemiology and chemistry. As an environmental reporter, I can attest that it is no small feat to write about such matters in a way that renders them easy for a reader to understand on a concrete level, but Harr succeeds wonderfully.

The final reason Schlichtmann is the right character on whom to hang this story is that he enables Harr to mark subtle signposts throughout the book about how events will unravel. Schlichtmann is a great lawyer, but he also has his meter running, and as the book progresses the reader becomes increasingly aware that the costs of proving corporate harm are consuming more and more of victory's likely spoils. This is true of all big lawsuits, but it seems especially true of the Woburn case, both because Schlichtmann is a maniacal perfectionist willing to spend untold sums on top experts, and because he has a taste for extravagance. Throughout the book Schlichtmann is seen renting expensive rooms in hotels like New York's Helmsley Palace and Boston's Ritz-Carlton to conduct settlement discussions. "This is for us, for our inner strength," his partner explains.

I won't spoil the book's ending (it's no small accomplishment for a nonfiction writer to inspire such secrecy in his reviewers) and reveal exactly how much of the Woburn families' booty was gone by the time Schlichtmann's lawsuit was done. Nor will I describe precisely how ghastly is the picture that emerges of ruthless corporate lawyers and rather slow-witted and (in one instance, at least) clearly biased judges. Suffice it to say that the reader leaves *A Civil Action* convinced that a courtroom is almost never a logical place to go if you want to solve society's problems, even when justice is on your side. The message is depressing, but the book is absolutely marvelous. □

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Political Booknotes

Back Fire: The CIA's Secret War in Laos and Its Link to the Vietnam War
Roger Warner
Simon & Schuster, $25
By David Corn

When gleeful Germans took sledgehammers to the Berlin Wall in 1989, a triumphant cry resounded throughout the West. We had won the Cold War, the celebrants crowed, and they continue to crow to this day. But overlooked since the victory party began have been all the pawns who were sacrificed by Oval Office strategists during this battle: the Salvadoran peasants slaughtered by an anti-communist military equipped by the Pentagon; the Kurds egged on and then abandoned in the seventies in their rebellion against Saddam Hussein (the enemy of Washington's anti-Soviet pal, the Shah of Iran).

They and others around the world bore the burdens of a global crusade not their own. But the Cold War dictated—or so its most dedicated warriors thought—that the United States exploit alliances of convenience.

No group was more victimized by American geostrategists in this period than the Hmong tribespeople of Laos. Romanced by the United States in the early sixties, the Hmong were used as anti-communist surrogates and then dumped—all in secrecy, as part of a clandestine war managed by the CIA at the direction of the Kennedy, Johnson, and Nixon administrations.

In *Back Fire*, Roger Warner, a former *Life* correspondent, ably chronicles this shameful episode. Warner shrinks back from rendering judgment, but a clear indictment shines through: Cold War bureaucrats, imbued with a blinding anticommunism, put the Hmong in the path of harm to serve a dubious political goal. And they got away with it easily. After all, there are no official victims in a war that does not officially exist.

In the early days of the Kennedy Administration, the major problem in Indochina was not Vietnam but Laos, a tiny pre-industrial nation of three million where the government and national economy barely functioned. There, an armed rightist camp backed by the Americans was facing the Pathet Lao, a nationalist group supported by the communists of North Vietnam. Eventually, the United States and the Soviet Union signed an accord that called for a neutral Laos and the withdrawal of all foreign military personnel. But the North Vietnamese did not leave, remaining in Laos in order to protect the Ho Chi Minh Trail.

Kennedy's aides responded by conducting a secret war on the North Vietnamese Army (NVA) and their Laotian allies. That is, they made a further mockery of the accord by using CIA personnel to arm, train, supply, and direct their favored combatants. Of course, the Kennedy, Johnson, and Nixon Administrations didn't trouble the American people—or Congress, for that matter—with the information that they were conducting a secret war next door to Vietnam.

The heart of the operation—and the center of Warner's book—was the agency's effort to support a tribal army comprised mainly of Hmong tribespeople. The Hmong were mountain dwellers who did not fancy lowlanders, neither the native Lao nor the encroaching North Vietnamese. The Hmong wanted to keep the NVA out of their territory and to improve their standing in Laos. Behind their tribal leader, Vang Pao, the Hmong gladly signed up with the Americans. They were hearty fighters and they eagerly mounted guerrilla operations against the larger and better-equipped North Vietnamese Army. The pay-off for helping the Americans was high. From the sky, iron birds controlled by the new American friends dropped rice, kettles, blankets, and pieces of corrugated metal (to be used for roofs). The Hmong believed their new patrons, such powerful men, would watch over and protect them.

The CIA men believed that, too. Much of Warner's account follows Bill Lair, a soft-spoken young case officer from Texas. It was Lair who helped set up the initial CIA contacts with Vang Pao. Lair was aware this was risky business and wanted plans prepared in case the Hmong one day faced defeat and had to flee. But back home—at CIA headquarters, the Pentagon, and Foggy Bottom—no one gave a damn about what might happen to the Hmong. I once asked Ted Shackley, who was the CIA's Laos station chief in the mid-sixties, about the absence of such contingency plans. With a straight face, he replied, "We had contingency plans, but our contingency plans never envisioned defeat."

At first, the operation went well. A small number of spooks, largely left to their own devices by Washington, guided a tribal army of some 10,000. Vang Pao's men waged small hit-and-run raids against the NVA and occupied some North Vietnamese soldiers who might have otherwise been fighting the South Vietnamese. But then, as the U.S. was to tread further into the

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muck of Vietnam, national security establishment bureaucrats took over and wreaked havoc on the Hmong.

If such a modest program was achieving modestly good results, the bureaucrats reasoned, an enlarged one would bring still greater successes. Bill Lair's mom-and-pop operation was turned into a guerrilla Walmart. Money was dumped into the program. A large operational center was constructed in Udorn, Thailand. The Americans increasingly prompted the Hmong to conduct more conventional attacks against the mighty NVA. The predictable happened. The Hmong were hit hard again and again. They sustained high casualties. To compensate for the losses, Vang Pao began to recruit younger and younger adolescents as troops. At one point, he thought the war was lost and the Hmong's existence was threatened and he considered evacuating the tribe. The Americans would have none of it and told him to stay put—and he and his people did.

Why would the CIA ruin a perfectly fine operation? The reason lies in the marriage of bureaucratic impulses to geostrategic desires that characterized the Vietnam War overall. A newcomer to any ongoing success gets no credit unless he or she changes it—and expansion is the natural inclination of any turf-minded bureaucrat. So, CIA officials and others wanted a bigger show. Also, by the mid-sixties, foreign policymakers in America were consumed with Vietnam, and actions in Laos were dictated by the demands of Vietnam. Consequently, the White House and the Pentagon pressured the CIA to score Vietnam-related successes in Laos. At the ground level, this translated into directing the Hmong to give up what they did best (fighting guerrilla-style) to battle as a conventional force against a much better conventional force.

Warner writes that those CIA officers most familiar with the program realized that these changes wouldn't work. But Shackley and the others turned a deaf ear to the warnings. Within the CIA—as with most government agencies—there was no real channel for registering dissent without jeopardizing a career.

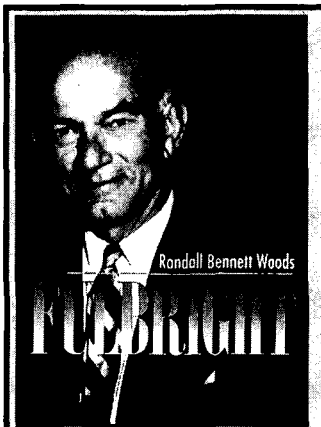
Vang Pao's army did succeed occasionally. But the NVA probably could have wiped out the Lao government forces and the CIA's tribal army at any time if it truly desired. But doing so would have advertised its violation of the neutrality accord, and the North Vietnamese were not willing to go that far. Ultimately, Hanoi was more restrained by political considerations than by the CIA's tribal warriors. Nevertheless, fierce fighting ensued, and the tribespeople suffered staggering losses.

As the Vietnam War slowly ended, the Hmong were left helpless. By the war's finale, about 30,000 of the Hmong had lost their lives in the warfare—more than one-tenth of the entire tribe. Tens of thousands were without homes. Vang Pao and a few of his favored Hmong were granted entry to the United States. The less fortunate of the tribe are still in refugee camps in Thailand.

The tribe was decimated—for nothing. As Warner writes, "The Hmong hadn't been able to save Laos, and nothing tried in Laos was able to salvage the American effort in South Vietnam."

Warner takes a poke or two at the men who pushed the program beyond what was reasonable. But he lets off the hook the early authors of the secret war. He too readily accepts their characterization of the initial few years as a "brilliant success." It is true that in those years this covert project did meet its operational objectives; the CIA's allies for a while irritated the larger forces of the NVA and Pathet Lao. But this was a hollow success, one that could not be sustained and one that placed the Hmong in a perilous position, for eventually they would have to deal with the reality that they were no match for the communist forces.

Such after-the-fact criticism is often dismissed as the product of hindsight. But when the relationship between the Hmong and the Americans started, some prescient observers wondered if they were courting disaster. In 1964, Roger Hilsman, a former State Department official, wrote, "Arming the tribesmen engendered an obligation not only to feed them when they were driven from their traditional homelands but also to protect them from vengeance.... Arming tribesmen sounds like a tough and realistic policy,



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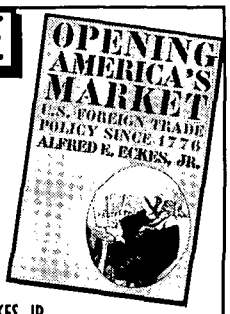

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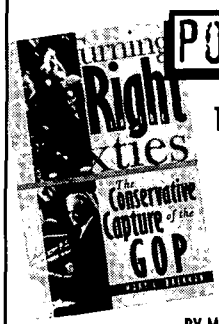

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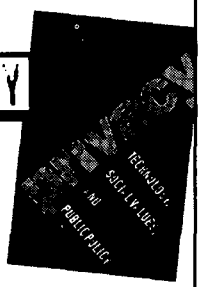

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even a generous one of helping brave fighters defend themselves. But it might in fact be not only unwise but unfair to the tribesmen themselves." Hilsman was correct. The CIA's support of the Hmong, no matter how good the initial intentions, locked the tribe into a violent conflict that they had no chance of winning.

Warner's reluctance to criticize Lair and other like-minded field officers is understandable. These U.S. government employees honestly believed they were helping tribal comrades for whom they cared. They assumed they were forging a bond in honor with the Hmong, but they were in no position to deliver on that honor. As Henry Kissinger was reported (by William Safire) to have said once, "Covert action should not be confused with missionary work." Lair and his friends learned this the tragic way. They were the best and brightest of a duped generation. And as Robert McNamara's memoirs show, they were far from alone.

One scene from the book provides an elegant metaphor for the U.S. operations in Laos. The Lao, Warner reports, had a custom for dealing with lunar eclipses. As the moon disappeared, Lao police officers, soldiers, and civilians shot guns and mortars into the sky to hit the celestial frog that was supposedly eating the moon. After one such episode, the joke among Americans in Laos was that shooting at the moon worked, for the moon did return. But bullets shot up do come down, and corpses were carted off in the aftermath.

In the crusade against communism, a good many American officials fired weapons without worrying where the bullets would land.They could afford to do so in the comfort of their Washington offices, for when the bullets came down, people like the Hmong would be the ones to catch them.

David Corn, Washington editor of The Nation *magazine, is author of* Blond Ghost: Ted Shackley and the CIA's Crusades.

The Ashes of Waco: An Investigation
Dick J. Reavis
Simon & Schuster, $24
By Gregg Easterbrook

That a mostly innocent group of people died in Waco, Texas on April 19, 1993 at the government's hand is the thesis of *The Ashes of Waco*, an excellent new book by Dick J. Reavis. The Waco assault was among the strangest acts the American government has ever engaged in, worse (by proportion and death toll) than the Philadelphia city government's 1985 bombing of the MOVE house, in which 13 people died.

Yet, as Reavis points out, big media outlets generally embraced the notion that the attack on the Branch Davidian compound was inevitable, even implying that those inside deserved to die. Most journalists accepted Justice Department blandishments about the "need" to attack the compound—which was isolated and surrounded by armed squads. "The job of finding out what had happened at Mount Carmel ultimately fell to people outside the media's salaried circles, to scholars, defense attorneys, survivors and self-financed independent researchers," Reavis writes.

Reavis, a journalist affiliated for years with *Texas Monthly*, spends considerable time explicating the evolution of the Branch Davidian belief. His strongest point is that, however odd, this set of convictions—particularly its longing for a cataclysmic confrontation between the believers and some generic enemy—did constitute an opening for negotiation. The feds should have brought in biblical scholars to convince David Koresh that the Book of Revelation offered another path. At least they should have made an effort to understand his views. But they didn't. And this, Reavis shows, increased the odds that the standoff would end in violent confrontation.

The Ashes of Waco contains original contributions to the understanding of this event, more information about

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which is now being provided by congressional hearings. Not only was the first raid apparently illegal—Alcohol, Tobacco, and Firearms (ATF) agents entered with a military thrust even though they did not have a "no knock warrant" (and even though local police had driven up to the Waco compound and walked in peacefully)—its tactics were shockingly belligerent.

According to Reavis, the ladder teams trying to enter the compound's second floor were under orders to break in and start lobbing concussion "flash bang" grenades, which can maim at close range and always generate an end-of-the-world noise. *They were ordered to do this regardless of how the raid developed.* Had Koresh opened the door and said, "Come in. I surrender!" the grenades would have been lobbed regardless. The ladder agents had no communication links to call them off if everything went smoothly. This tactic seems specifically calculated to initiate a gunfight.

Reavis further asserts that the ATF essentially faked warrant evidence, claiming there was drug manufacturing at the compound, in order to activate a legal clause that allows the military to participate in a domestic police action. Why pull in the National Guard? According to Reavis, ATF officials wanted to fly over the site during the raid in military helicopters, which are much zoomier and neater-looking than police helicopters.

But the military helicopters—complete with mounted machine guns—gave the ATF no tactical advantage and thus were needlessly provocative. Given that the ATF knew that Koresh's inner circle was obsessed with weaponry, it would not be a wild guess that the sight of approaching *military* aircraft would have freaked out the Davidians but good. Indeed, some evidence suggests that the firing started when the helicopters appeared. When it was just ATF agents approaching on foot, Koresh stood in the compound doorway unarmed and seemingly unconcerned.

As for the second assault, Reavis suggests that Justice knew the "tear gas" (a misnomer, since the primary effect of this substance is to cause choking) was in fact dangerous. Though there is a valid dispute regarding whether Washington officials, especially Attorney General Janet Reno, should have known that tear gas can cause fire, they have no excuse for not knowing that putting it into confined spaces is dangerous—especially to children, whose lungs are highly sensitive. The plan to flush the Davidians out by blasting in huge quantities of tear gas (the gassing had been going on nearly six hours when the fire began) was not a benign exercise.

Given that there was an obvious, nonlethal approach to getting people out of the compound—to have just kept waiting—the decision to use large volumes of an intensely toxic substance in an area where 25 children were housed no longer seems a mere misjudgment. It seems vindictive, intended at least to cause suffering in order to avenge four dead agents. That the children inside the compound (and probably many of the adults) bore no responsibility for the agents' deaths seems not to have mattered.

The Ashes of Waco is a chilling, commanding book, but not a great exercise in writing. Reavis's prose is often average. At times he errs by depicting Koresh as little more than a misunderstood kid. Koresh was a criminal. He was, at least in some part, responsible for the deaths of four federal agents. He did not just have an unusual religious belief; he also employed it to inflict crimes upon others (for example, the rape of a ten-year-old girl reported at the recent Waco hearings). And, without question, he was criminally negligent in persuading others to remain with him in the compound to face their deaths. Koresh may also have triggered the final fire with the intent of killing both federal agents and his followers, which is plain murder. Reavis falters on this point somewhat, coming perilously close to absolving Koresh.

After finishing this book, I found myself haunted by a taped conversation between FBI negotiators and Juliette Martinez, one of the Davidians. One negotiator was attempting to persuade the woman to come out with her children. Martinez wanted to talk religion, and the agent refused. The agent tried to convince Martinez that if she left she could keep custody of her children, when Martinez clearly knew this was a lie. Another agent tried to tell Martinez she would not be shot as she left the compound because, in the agent's words, "the whole world media is watching." Martinez replied, "The media is not really watching. [The media] only sees what the FBI wants [it] to see."

Finally an FBI negotiator asked Martinez just what it was the people inside Mount Carmel wanted. She answered, "For God to come and deliver us from all our enemies."

If there was any doubt before, the approach on April 19 of military helicopters and men in black masks would convince the Davidians that the government *was* the enemy. What happened that day was the lowest point for the American government since the 1989 invasion of Panama: another strange event in which many innocents died needless deaths, and about which the media, including me, was oddly quiescent.

Gregg Easterbrook is the author of A Moment on the Earth *and a contributing editor of* The Atlantic Monthly *and* The Washington Monthly.

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Harvard Med: The Story Behind America's Premier Medical School and the Making of America's Doctors
John Langone
Crown Publishers Inc., $25
By Paul M. Barrett

John Langone has spent much time at Harvard's temple of medical education and returns with a notebook full of impressions of how the high priests of the healing profession are trained. We are right there among the cadavers as students learn anatomy and hone the black humor that shields against their revulsion over slicing body parts. Langone also takes us to the hospital bedsides as would-be doctors stumble through their first patient interviews and later as they struggle to tell people they are dying of cancer. These are powerful, well-drawn scenes.

But Langone, a veteran medical journalist, hopes to do more. He aims to illuminate the causes and possible cures of "the gap between caregivers and patients, a gap that is ever-widening because of the intrusion of technology and market forces in medicine." A worthy goal. Unfortunately, *Harvard Med* reads mostly like a reporter's notebook: It is full of mini-profiles and anecdotes, but lacks the sort of narrative that could show the reader how an institution like Harvard shapes students.

We should care about medical education because it affects the quality of the treatment we get. Langone reiterates the common lament that this treatment has grown increasingly impersonal and expensive as the medical profession has splintered into specialties and subspecialties. He mourns the passing of the old-fashioned family doc, who mixed preventive counseling with compassionate attention to his patients' emotional, as well as physical, health.

In fact, the problems with doctors today have their roots in pre-medical education, and Langone gives this subject insufficient attention. Colleges and medical schools collaborate to shrink the pool of applicants by means of killer science courses like organic chemistry. Naturally, doctors need to know a lot of science, but Harvard Med and other schools place too great an emphasis on applicants' grades in certain undergraduate classes. The super-competitive science geeks are experts at acing written exams, but don't necessarily have talent for the delicate task of caring for the sick.

Langone does identify the "pre-med syndrome," but explores the phenomenon primarily by quoting professors and students who deplore it. Harvard, he asserts, has tried to move away from its fixation on college science grades. He profiles med students who write poetry and think big thoughts about the relationship between behavior and health. But the author doesn't offer a substantial portrait of a representative geek or of one of the old-line professors who still defend the narrow grade fixation.

This becomes a frustrating pattern: Langone mostly focuses on reformers and idealists, whom he quotes at great length about the weaknesses of medical education. Harvard wants to produce prize-winning researchers. Debt-burdened students find irresistible the big bucks of cardiology, as opposed to the merely comfortable income of a primary care physician.

But what's missing from the book is a sustained storyline that follows a student's evolution from the vague notion of serving ordinary patients with ordinary problems to the conviction that being a top-dollar specialist is the only way to go.

Langone says in an introductory note that he avoided depicting the routine of a typical medical student or the drama of the emergency room because these are hackneyed genres. He's right that we have had enough of hyped ER heroes. But the author errs when he steers away from a detailed documentary of one or a handful of medical stu-

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dents, whose maturation and changing attitudes would have provided far more insight into the workings of Harvard Med than this sporadically entertaining volume.

Paul M. Barrett is a reporter with The Wall Street Journal.

The Southern Front: History and Politics in the Cultural War
Eugene D. Genovese
University of Missouri Press, $29.95
By Jon Meacham

My favorite moment of the 1992 campaign—a brief scene that went largely unremarked upon—came one sunny afternoon in late September. At the time, I was a reporter for *The Chattanooga Times* and President Bush, panicked by the possibility that his rival all-Southern Democrat ticket might break the solid GOP South, was scurrying around the region. At one airport rally after another, his voice ringing with ridicule, Bush thumped Clinton's Arkansas record. In an appeal to a caricature of Southern life, the President portrayed Clinton as nothing less than the enemy of beer, sports, and trailers. "Governor Clinton," Bush charged, "raised the gas tax. He raised the tax on mobile homes. For you ESPN watchers, he raised the tax on cable TV. And for good measure, he even raised the tax on beer."

Bush's frantic pitch was an obvious attempt to bring out the worst in a certain kind of Southerner. Nevertheless, Clinton, a son of the region, was never able to answer with an appeal to the *best* in the Southern character. That's striking, and important, because Clinton, with his drawl and his Ivy League credentials (insecure Southerners love the Ivies), should have been liberalism's best hope of selling again in the Sunbelt. But it didn't work—and certainly hasn't in the ensuing three years.

In part this is true for reasons that are peculiarly Southern. You might have thought Clinton's rise to power from a poor state would have inspired a kind of tribal pride. The proper analogy here would be the enormous pleasure Catholics—who, like Southerners, were a notoriously insecure lot—took in John Kennedy's campaign, election, and presidency. What is crucially different is that Kennedy made a point of appealing to the best in his people—not only fellow Catholics, of course, but all Americans—and generating loyalty by conducting himself as a graceful and thoughtful president.

Clinton has not pulled that off. To be sure, he had a lot to overcome in the minds of his fellow Southerners: This is a region that thought 1976 would redeem it and the memory of Jimmy Carter's implosion is still painfully fresh. To put that humiliation away, Clinton had to be more Atticus Finch than Boss Hogg, and he has been exactly the opposite. From leering remarks about Astroturf in his truck bed to his boxer rebellion on MTV, there has been too little dignity and too much down-home.

Given the South's continuing domination of national politics, this is spectacularly unlucky for Clinton. In eight of the last nine elections, the candidate who has carried a majority of the old Confederacy has won the White House. Most important, the themes that play in Savannah are equally effective these days in Cincinnati or Sausalito. You might ask, 130 years after Appomattox, who *really* won the war? Read the returns and listen to the drawls of the nation's most prominent politicians—Clinton, Gore, Gramm, Gingrich, Armey, Lott—and it's pretty clear the South has come out on top.

This undeniable connection between what unfolds in the 11 states of the old Confederacy and what's going on in the country at large concerns Eugene Genovese, a noted historian of slavery and the Old South, in his new book. On hearing that a self-described Marxist was writing about the contemporary South, you can be forgiven for expecting a vituperative diatribe against the trailer-loving rubes Bush thought he was speaking to.

But Genovese is a complex, thoughtful man. A collection of his latest reviews and essays, the book is implicitly about what liberals might learn from the South. Many may doubt that the land of Orval Faubus, Ross Barnett, and George Wallace would have anything constructive to offer aside from lessons in buffoonery and injustice. Genovese, however, has long sojourned in the intellectual and political history of the South. He reports back that the region does in fact have civilized voices which, if heeded, could help the left close its enduring cultural gap with the right. He reminds the right, too, that only in times when Southerners (and conservatives generally) put aside their prejudices has progress—both material and, ultimately, spiritual—come to a proud, but defeated, region.

An example: Southerners have been, at times, apt critics of the market, arguing that the rapid industrialization and attendant materialism were both consuming American life and damaging the nation's spirit. Beginning in the twenties, more and more Americans were leaving tight-knit, largely rural lives to go off to the big city. Southern writers were among the first to see the possibly destructive consequences of such a shift. The Southern antidote—a collection of Burke's "little platoons"

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of churches, farms, market-days—now goes by the unwieldy term "communitarianism." Back then, it was just called life.

But another popular relic, one of the most consistent applause lines of the 104th Congress and of the upcoming 1996 campaign, is the urge to return power to the states. (This is merely a respectable way of speechifying about the same forces that prompted the assault on Fort Sumter in 1861.) The problem with many of my fellow Southerners—I grew up in Chattanooga—is that they tend not to acknowledge that bad things can grow out of good impulses. Yes, concentrating power in Washington might not always be best. But as slavery and Jim Crow illustrate, concentrating power in local hands certainly doesn't automatically produce the best results.

There is, then, much irony in the Southern example. Southerners have long, and laudably, been concerned with manners, values, and patriotism; so, now, are most Americans. But Southerners, too, have long been hypocritical about Washington's contribution to their lives; so, now, are most Americans. Without Washington—especially the Washington of Roosevelt, Kennedy and Johnson—the region would no doubt have languished in the dust. When FDR said he saw a third of the nation ill-clad and ill-fed, he was mostly talking about the South. Electricity, Social Security, good roads, military bases, and, later, airports and integration were all federally funded or inspired. Turning Mencken's "Sahara of the Bozarts" into the prosperous Sunbelt is one of the federal government's singular twentieth-century achievements.

Genovese, though, is most concerned about the future. His vision is, admittedly, lofty: He hopes for a "coalition across racial and inherited ideological lines to combat the moral degeneracy that now runs rampant throughout both white and black America." (There is a long tradition of sentimental thinking in the South. Many generations of Southerners have sat up late, bourbon in hand, wondering what if Braxton Bragg had held Missionary Ridge against the Union charge, preventing Sherman's March to the Sea?) Yet it is true that the New Deal coalition was founded along just the lines Genovese imagines: A liberal faith in government, and a conservative adherence to traditional social and cultural mores.

Redemption—White House take note—is a possibility. Although Clinton's character problems (Whitewater, Paula Jones, Troopergate) have embarrassed the South, the President has a gift for the evangelical and charismatic. He could repair some of the damage. Yet Southerners, too, must be willing to take a second look at their complicated native son, a man who understands in his bones that government turned a sluggish South into the Sunbelt. Until Bubba understands that Washington is not inherently bad, and that true manners mean more than holding open doors but also being generous of spirit—the culture wars will go on. And the losers will be all of us, North and South.

Jon Meacham, a contributing editor of The Washington Monthly, *is national affairs editor of* Newsweek.

The Selling of Supreme Court Nominees

JOHN ANTHONY MALTESE

Politics has always been at the heart of the Supreme Court selection process. According to John Anthony Maltese, the first "Borking" of a nominee came in 1795, with the defeat of John Rutledge's nomination as chief justice. What is different about today's appointment process, he argues, is not its politicization but the range of players involved and the political techniques that they use.

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The Making of a Conservative Environmentalist
Gordon K. Durnil,
Indiana University Press
By Karl Hess, Jr.

Conservative environmentalists are an endangered species. I consider this odd given the conservative bent of environmentalists, their drive to preserve and restore, and the moral certitude that anchors their green cause. I consider it even odder given conservatives' environmental turn—their deep concern for America's moral climate being the best example. Yet conservatives and environmentalists mix about

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as well as oil and water.

Gordon Durnil—Republican Party stalwart, Dan Quayle advisor, and former Bush appointee to the U.S.-Canada International Joint Commission—finds this odd as well. In his new book, *The Making of a Conservative Environmentalist*, he argues that conservatives are by nature and nurture environmentalists—or at least they should be. Careful to lay out his own conservative credentials, even belaboring them at times, Durnil dispels the notion that environmental values are the exclusive property of liberals and Democrats. Concern for our environment, he notes, should have nothing to do with left or right; ideology comes into play only when the talk turns to solutions.

Durnil's message is aimed in part at the Republican Right. Conservatives, he argues, could actually have an edge on liberals in the green elysian fields. "To conserve our natural resources," he writes, "is not a liberal philosophy; it is a conservative philosophy. To protect the individual from assault on person and property also fits with a conservative philosophy."

Unfortunately, this vital message—a message I hope the Right hears, but fear it will ignore—is obscured by what follows.

For starters, his idea of what constitutes an environmentalist is baffling. For Durnil, true environmentalists are the legions of angry, working-class men and women victimized by air- and water-borne toxins. That's why he was disappointed with the past Congress: Instead of taking action on real environmental issues—like sun-setting chlorinated compounds—it just passed a bill "regarding a desert in California." He is right in part; many victims of toxic poisoning are indeed bonafide environmentalists. But what about the middle-class aesthetes that he dismisses—the legions of angry men and women who fought the Forest Service to save western forests and spotted owls, and the grassroots greens who now struggle to save islands of biodiversity? No matter what Durnil may believe, American greens are firmly rooted in the spirit and symbol of wilderness—in what Henry David Thoreau called the "preservation of the world."

But Durnil's weakest point is his failure to give conservative solutions to environmental problems. Other than a moral stricture that people ought to do what is right, the heart of his policy menu is zero tolerance for toxic pollution. Chemicals, he adds, should be presumed harmful until proven harmless. The idea has its appeal—after all, why should the government allow the person or property of any American to be damaged, even by trace amounts of toxic chemicals? But in a real world of uncertainty and shades of gray, it's a recipe for disaster. Science is no better at proving chemical innocence than juries are at proving the innocence of the accused. "Not guilty" maybe, but never "innocent."

Conservatives reading Durnil will be struck by the probable consequence of the policies he advocates: bigger government. And environmentalists will be troubled by the narrowness of his policy interests: not a word on the hundreds of environmental issues that have little or nothing to do with persistent toxins—like the endangered salmon, the loss of topsoil on Midwestern farms, and the plight of several hundred million acres of public grazing lands.

Conservatives and environmentalists alike will be perplexed by Durnil's silence on the rising star of free-market environmentalism, a libertarian menu of market and private property solutions to land, wildlife, and air issues that entail minimal government. Why does he—indeed, why does the Republican Congress—deftly avoid any discussion of the innovative ideas that could build a positive and caring conservative environmental agenda?

Karl Hess is an environmental writer and a senior fellow in environmental studies at the Cato Institute.

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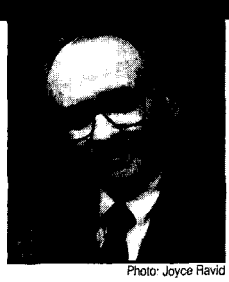
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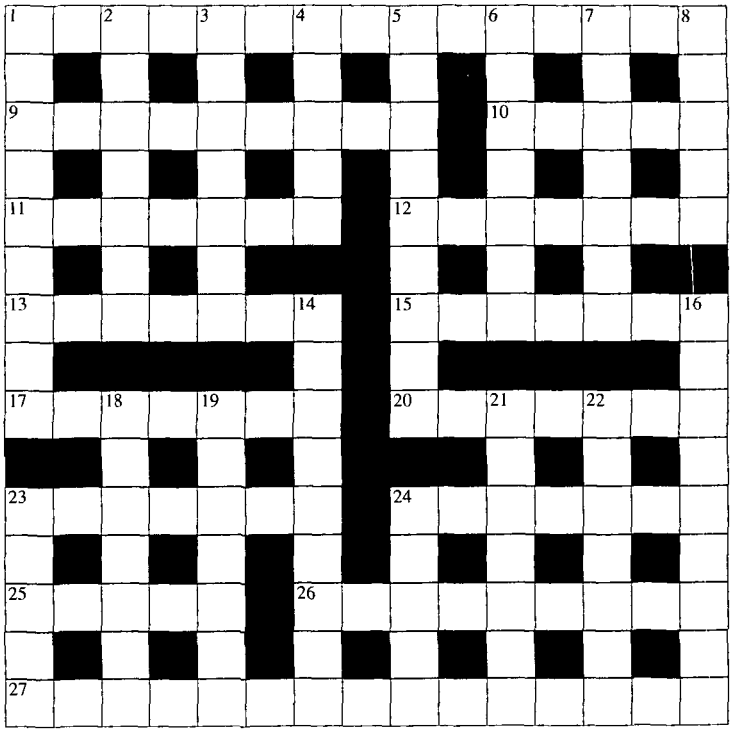
Political Puzzle

BY JOHN BARCLAY

The numbers indicate the number of letters and words—thus (2,3) means a two-letter word followed by a three-letter word. Groups of letters, such as USA, are treated as one word.



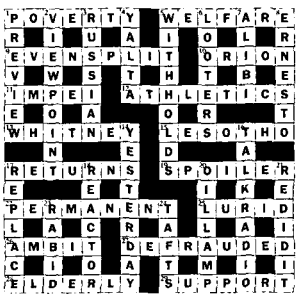
ACROSS

1. Government officials misplaced beach in tax curve. (9,6)
9. Court's panel takes in 501 before Langley group. (9)
10. Prominent movie character on drugs? (5)
11. Junior audience precedes bad monarch. (7)
12. Payment for butter confection with a bit of ice. (7)
13. Relented and paused awkwardly after end of race. (5,2)
15. Disturb the late Lou Gehrig, for example. (7)
17. Oriental skillfully beat tin. (7)
20. Deletions sets irk assembly. (7)
23. Mark found in unavoidable mishaps. (7)
24. Seamen are rascals out of control. (7)
25. Features certain votes about sessions' ending. (5)
26. Free revolutionary shuffled deck after peacekeeper. (9)
27. Washington VIPs trash Senate's pet river. (15)

DOWN

1. Pleasure sent me to Jenny. (9)
2. Trained nurse about North Dakota plays. (3,4)
3. Chapel Hill institution senior citizens released. (7)
4. Cleans up Irani bomb burst site. (2,3)
5. North Africans' pet saying: "Nonsense!" (9)
6. Did hers pureed, like some tomatoes. (7)
7. Write up air god. (7)
8. Authority finds messy end in void. (5)
14. Apartment is open-and-shut case before lease ending. (9)
16. City districts' diseases controlled around first test. (4,5)
18. Strengthens barbecue dinner? (5,2)
19. Peculiar rite set for erstwhile free port. (7)
21. Most unplanned tree in planned interval. (7)
22. Motor trouble heard in Ukrainian city? (7)
23. *Faux pas* by African settler about noon. (5)
24. High around 101 is permitted. (5)

Answers to last month's puzzle:



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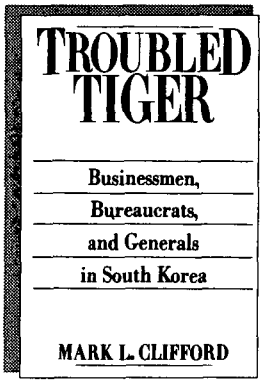

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